

**Analysis of compliance by
US Forest Service Southwestern Region with
Incidental Take Statements issued by
the US Fish and Wildlife Service in
three Biological Opinions of 1999.**

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Background

Three Biological Opinions were issued by the US Fish and Wildlife Service (FWS) in 1999 as part three separate consultations over threats to threatened or endangered species by ongoing or term-permit livestock grazing on National Forests in the Southwest Region.

These biological opinions are:-

- "Biological Opinion for Southwest Region U.S. Forest Service. Ongoing Livestock Grazing Activities on allotments" 3/2/1999 (hereafter BOR3)
- "Biological Opinion Ongoing and Long-Term Grazing on the Coronado National Forest" 7/29/99 (AESO/SE 2-21-98-f-399 hereafter BOC)
- "Grazing permit reauthorization on 7 allotments" 7/20/99 (AESO/SE 2-22-99-F-016, hereafter BO7)

The FWS recognized that "take" of listed species incidental to livestock grazing was likely to occur for the allotments and species listed in table 1. In the permits authorizing incidental take of these species (ITS), FWS set forth certain non-discretionary terms and conditions as the means of implementing reasonable and prudent measures that would minimize incidental take of the affected animal species to a permitted level.

Method of analysis

The Center analyzed compliance of the Forest Service with these terms and conditions by requesting copies of documents that specifically address each term and condition under the Freedom of Information Act (FOIA).

The documents presented by the various National Forests were then scrutinized for the extent to which they show that the Forest Service had met each term and condition, for each allotment and species of interest. Terms and conditions were scored as either YES, NO or UNKNOWN with regard to whether the Forest Service had met them. In concluding whether or not the Service had met a term or condition, we judged conservatively, erring in favor of the Forest Service. For example, if Terms and Conditions called for "protection of riparian areas" but no responsive documents were presented, this might be scored as "Unknown" if exclosures were present, because no actions may have needed to have been taken if the exclosure had already achieved adequate protection.

Allotments were removed from the non-compliant list in Table 2 for reasons other than compliance. For some allotments, the Incidental Take Statement had been overturned by a court order in Arizona Cattle Growers v US Fish and Wildlife Service. For such allotments, the Terms and Conditions were no longer valid. In other cases, the term of the consultation was only until Feb 2001 and thus, the applicability of the ITS is just about to expire. Upon expiry, the Forest Service is bound to reopen consultation on these allotments anyway. For yet other allotments omitted from Table 2, known reductions in stocking or non-use for grazing effectively satisfy terms and conditions.

Results

Analysis revealed that Terms and Conditions as laid out in the Incidental Take Statements (ITS) of the three Biological Opinions in question have not been met by the Apache-Sitgreaves, Coconino, Coronado and Tonto National Forests for the 43 allotments listed, with respect to the species listed in Table 2, and shown in Figure 1.

Specific Terms and Conditions of Incidental Take Statements that have not been met and the evidence that shows they have not been met are detailed in Table 1 for every relevant Forest and allotment.

The USFS is therefore in violation of the ESA § 7(b)(C)(iv) which requires Agency compliance with such terms and conditions as laid out by the FWS.

By failing to comply with these terms and conditions, the USFS is no longer exempt from the prohibitions of the ESA § 9(a)(1)(B). An illegal taking may be resulting from ongoing livestock grazing on these allotments.

Appendix: Species affected

The Gila Topminnow (*Poeciliopsis occidentalis occidentalis*) is a subspecies of topminnow fish endemic to the Gila River and Colorado River basins. It is now reduced to only 18 localities (BOR3 p 13). The Gila topminnow was listed as endangered in 1967 but no critical habitat was designated. Livestock grazing negatively impacts this fish by habitat degradation through erosion and arroyo formation and loss of functioning riparian communities.

The Loach Minnow (*Tiaroga cobitis*) and Spikedace (*Meda fulgida*) are two Southwestern fish species native to the Gila River system and listed as Threatened under the ESA in 1986. A final rule designating critical habitat was published on 4/25/2000. Livestock grazing negatively impacts these fish primarily causing stream channel destruction, stream dewatering, pollution and sedimentation that destroys hiding places on stream bottoms and smothers eggs (BOR3, pp17-21)

The Little Colorado River Spinedace (*Lepidomeda vittata*) is a fish species endemic to the Little Colorado River basin. It was listed as threatened in 1987 with critical habitat in East Clear Creek. Livestock grazing negatively impacts this fish by habitat degradation through altered stream flow, reduced water quality and watershed modification (BOR3 p 14).

The Razorback Sucker (*Xyrauchen texanus*) is a species of fish endemic to the Colorado River Basin. It was listed as endangered in 1991. Livestock grazing negatively impacts these fish by "disturbance and degradation of areas necessary for spawning, nursery, rearing, feeding and resting" (BOR3 p158).

The Sonora Chub (*Gila ditaenia*) is a fish species endemic to the Rio de la Concepción basin of Sonora and southern Arizona. It is adapted to ephemeral desert streams and *tinajas*. The species was listed as threatened in 1986. Critical habitat is designated in Sycamore Canyon, affecting the Bear Valley allotment on the Coronado National Forest. Livestock grazing negatively impacts this fish by habitat degradation through altered stream flow, reduced habitat from bank trampling and reduced water quality from erosion in the watershed (BOR3 p 39).

The New Mexico Ridgenose Rattlesnake (*Crotalus willardi obscurus*) is a native Southwestern reptile subspecies listed as Threatened under the ESA on Aug 4, 1978. It is found above 5000ft in evergreen woodlands and montane conifer forest. Critical habitat was declared in the Animas Mountains. However the populations on the Coronado National Forest Allotments shown in Table 1 in the Peloncillo Mountains are not protected within Critical Habitat. Effects of livestock grazing on the snake include direct trampling, injury during construction or maintenance of range improvements, loss of protection

from predators by grass cover, loss of rodent prey base from reduced grass cover and seed production, altered vegetation and loss of the natural fire regime. (BOC pp 161-163)

The Mexican Spotted Owl (*Strix occidentalis lucida*) is a spotted owl subspecies endemic to the northern Sierra Madre and the Southern Rocky Mountains. The subspecies was listed as threatened in 1993. Critical habitat has been proposed but not yet finalized. Livestock grazing negatively impacts owl reproduction by reductions in the rodent prey base through removal of grass cover and seed crop, trampling of burrows and general shifts in vegetation and fire regime (BOC pp 217ff)

The Lesser Long-Nosed Bat (*Leptonycteris curasoae yerbabuena*) is a subspecies of a bat that is also found in Venezuela. The LLN Bat is native to Mexico, southern Arizona and New Mexico. The LLN Bat was listed as endangered in 1988. The threat of grazing to the bat derives from the destruction and reduced survival and recruitment of the plant species that are the principal sources of nectar used by the bat. Agaves of three species and saguaros are all used as food sources and all are negatively impacted by livestock grazing through "*trampling of young agaves and cacti, soil compaction, erosion, alteration of the plant community species composition and abundance, and changes in the natural fire regime*" (BOC p 124)

TABLE 2. Allotment specific analysis of compliance with Terms and Conditions laid out in incidental Take Statements of recent Biological Opinions with respect to grazing on Southwestern Region 3 National Forests.

1) APACHE-SITGREAVES NF

a) Loach minnow and/or Spikedace

i) Boneyard (Loach minnow and spikedace)

FS must reconsult by Feb 2002.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BOR3 p57ff). Take exceeded if no improvement in watershed, soil, range riparian and stream channel.	Range/ Soil/ Capability/ Capacity Analysis 2/26/99:- inspections since 1978 show <u>excess utilization</u> recorded in 17 of 41 inspections. All of Nutrioso Winter, Middle pasture range not meeting, 33% of Grassy Hollow not meeting Plan Std DOT1 in 1998. Approx 50% soils not meeting in 1998. Water Quality not limited in E Fork Black R, Limited in Nutrioso Ck. (ADEQ 6/1/98)- No post BO survey.	NO
Take condition 2. Take exceeded if monitoring and reporting of utilization not on time.	Log of rangeland monitoring 1999 & 2000:- prelivestock and midpoint records only. No record of submission in response to FOIA.	NO
T&C 1.1 Determine livestock capacity by 9/30/2000 and identify and implement changes if no improvement.	Range/ Soil/ Capability/ Capacity Analysis 2/26/99:- capacity 301 AUMs	YES
T&C 1.2 Complete watershed analysis for Black R by 9/30/2000 to identify and prioritize actions to assist in recovery of loach minnow.	Cumulative effects for Alpine RD Grazing allotments 3/13/00:- projection not measurement.	NO
T&C 2.1 Repair fences to maintain exclusion from Black R.	Settles to Rogers 7/7/00 re trespass in Duck trap enclosure. No fencing check/repair log in response to FOIA.	Unk.
T&C 2.2 Continue fish monitoring, also survey in E fork Black R, Coyote & Boneyard Cks.	White to A-S Sup 11/20/00 "no fish monitoring"	NO
T&C 2.3 Protect riparian of Coyote & Boneyard Cks from overuse	No documents in response to FOIA	Unk.
T&C 2.4 Before 1999 entry, exclude access to riparian on Coyote Ck and tributaries (Grassy Hollow & Middle pastures)	No log of monitoring in response to FOIA	Unk.
T&C 2.5 Before 1999 entry exclude access to riparian on Boneyard Ck tributary not entering Sierra Blanca L.	No log of monitoring in response to FOIA	Unk.
T&C 3.1 Monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout. Report to FWS by 30 days before AOP	Settles to Rogers 8/10/00 Grassy Hollow use up to 45% exceeds 25% std. Allow 7 d. to move: Settles to Rogers 8/21/00- Boneyard use 35% exceeds 25% std. Allow 5 d. to move: Settles to Rogers 9/8/00 - Middle use 45-50% exceed 25% std. Allow 4 d. to move to next pasture. <u>Livestock not moved until use exceeded.</u> Log of rangeland monitoring 1999 & 2000:- prelivestock and midpoint records only. No record of submission to FWS in response to FOIA	NO
T&C 3.2 Report to FWS	None in response to FOIA	NO

ii) Apache-Sitgreaves, Bush Ck allotment (Loach minnow and spikedace)

FS must reconsult by Feb 2002. Permit for 4 horses Jan-Apr. 2000 AOP provided but is non-responsive to request.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p83ff) Take exceeded if no improvement in watershed, soil, range riparian and stream channel.	1997 summary of range condition and trend downward from 1968-1997. No post BO survey. White 6270-1 to A-S Sup 11/20/00: refers to "1998 analysis for watershed soils range and riparian" not found in FOIA response.	NO
Take condition 2. Take exceeded if permitted livestock enter Blue R	No documents in response to FOIA	Unk.
Take condition 3. Take exceeded if monitoring & report of utilization not on time	Log of rangeland monitoring 1999,2000:- no utilization monitoring	NO
T&C 1.1 Determine livestock capacity by 9/30/00 and identify and implement changes if no improvement.	No documents in response to FOIA	NO
T&C 1.2 Continue fish monitoring	White to A-S Sup 11/20/00 "no fish monitoring"	NO
T&C 1.3 Complete watershed analysis of Blue R by 9/30/00 to identify and prioritize actions to assist in recovery of loach minnow.	Cumulative effects for Alpine RD Grazing allotments 3/13/00:- projection not measurement.	NO
T&C 2.1 Check & repair all river exclusion fences before entry.	No documents in response to FOIA	NO
T&C 2.2 Protect riparian in Bush & Steeple Cks from overuse.	No documents in response to FOIA	NO
T&C 3.1 Monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout. Report to FWS by 30 days from issuance of AOP	Log of rangeland monitoring 1999,2000:- no utilization monitoring documents in response to FOIA	NO
T&C 3.2 Report to FWS	No documents in response to FOIA	NO

iii) Apache -Sitgreaves, Cow Flat allotment (Loach Minnow)

FS must reconsult by Feb 2002. Subject of AGCA v FWS but ITS upheld. New permit implemented 5/16/00. 2000 AOP allows 416 AUMs. 1148 previously permitted.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p112f) Take exceeded if no improvement in watershed, soil, range riparian and stream channel.	EA for Cow Flat, Foote Ck, PS and Stone Ck allotments (1999 undated):- 1997 range analysis 100% poor-fair cond'n. 68% watershed unsatisfactory. No post BO surveys in response to FOIA	NO
Take condition 2. Take exceeded if permitted livestock enter Blue R other than at crossings	No documents in response to FOIA	Unk.
Take condition 3. Take exceeded if monitoring & report of utilization not on time	Log of rangeland monitoring 1999, 2000:- no utilization monitoring documents in response to FOIA	NO
T&C 1.1 Determine livestock capacity by 9/30/00 and identify and implement changes if no improvement.	No documents in response to FOIA	NO
T&C 1.2 Continue fish monitoring	No documents in response to FOIA	NO
T&C 1.3 Complete watershed analysis of Blue R by 9/30/00 to identify and prioritize actions to assist in recovery of loach minnow.	Cumulative effects for Alpine RD Grazing allotments 3/13/00:- projection not measurement. EA for Cow Flat, Foote Ck, PS and Stone Ck allotments (1999 undated):- 68% watershed unsatisfactory, water qual limited in Blue R downstr of KP Ck entry.	YES
T&C 2.1 Access Blue R only at crossing 5/1-2/28. Provide map to FWS of xing sites 30d before AOP.	No documents in response to FOIA	NO
T&C 2.2 Protect riparian in Largo, Steeple Cks, Cow, Lamphier & Sawmill Cyns from overuse.	No documents in response to FOIA	Unk.
T&C 2.3 When cows in river pasture check & repair exclusion fences	No documents in response to FOIA	Unk.
T&C 3.1 monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout. Report to FWS by 30 days from issuance of AOP	Log of rangeland monitoring 1999, 2000:- no record of utilization monitoring in response to FOIA	NO
T&C 3.2 Monitor access to Blue R when l'stock in Lamphier or Cow Cyn past. every 10d. Take immediate action to remove if present.	No documents in response to FOIA	NO
T&C 3.3 report to FWS	No documents in response to FOIA	NO

iv) Apache -Sitgreaves, Dark Canyon allotment (Loach Minnow and Spikedace).

FWS issued a new BO "Grazing permit reauthorization on 7 allotments" dated 20-Jul-99 (Consult # 2-22-99-F-016) good for 10 years. Hayes 2670/2230 to Fowler Propst 2/15/00: "at this time Dark Canyon is not stocked with cattle". Unknown if this was also true of 1999. Omitted from non-compliant list.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p38ff) take exceeded if no improvement in watershed, soil, range riparian and stream channel.	Hayes 2670/2230 to Fowler Propst 2/15/00 no evidence presented	Unk
Take condition 2. Take exceeded if riparian corridors along Eagle Ck have more than incidental impacts. Evaluation annually by USFS.	Hayes 2670/2230 to Fowler Propst 2/15/00 no evidence presented	Unk
T&C 1.1 determine livestock capacity by Apr 15, 2000 and identify and implement changes if no improvement.	Hayes 2670/2230 to Fowler Propst 2/15/00: App A of DN/FONSI not received in FOIA response.	Unk.
T&C 1.2 complete watershed analysis by Sept 30, 2000 to identify and prioritize actions to assist in recovery of loach minnow and spikedace.	Hayes 2670/2230 to Fowler Propst 2/15/00: Summary of "bankfull data" for Blue and Black Rs.	Unk.
T&C 2.1 Restrict livestock access to Eagle Ck down to movement of cattle.	Hayes 2670/2230 to Fowler Propst 2/15/00: "not stocked"	N/A
T&C 2.2 Evaluate crossings to ensure occur in areas least likely to impact	Hayes 2670/2230 to Fowler Propst 2/15/00: "not stocked"	N/A
T&C 2.3 Trailing of cattle on Eagle Ck in shortest time, not overnight, fewest crossings, when bankline moisture low.	Hayes 2670/2230 to Fowler Propst 2/15/00: "not stocked"	N/A
T&C 2.4 survey of riparian habitat before and after moves in Eagle Ck pastures- submit report to FWS by Dec 31, 1999.	Hayes 2670/2230 to Fowler Propst 2/15/00: "not stocked"	N/A
T&C 2.5 maintain integrity of exclosures in Eagle Ck	Hayes 2670/2230 to Fowler Propst 2/15/00: 1999 and 2000 AOPs not received in FOIA response.	Unk.
T&C 2.6 establish two fish monitoring sites in Eagle Ck, annual monitoring.	Hayes 2670/2230 to Fowler Propst 2/15/00: a fish survey not received in FOIA response.	Unk.
T&C 3.1 monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout. Report to FWS by 60 days from end of season.	Hayes 2670/2230 to Fowler Propst 2/15/00: "not stocked"	N/A
T&C 3.2: report to FWS	Hayes 2670/2230 to Fowler Propst 2/15/00	YES

v) Apache-Sitgreaves, East Eagle allotment (Loach minnow and spikedace)

Subject of AGCA v FWS judgement 12/14/99. ITS set aside.

vi) Apache -Sitgreaves, Foote Ck allotment (Loach minnow)

FS must reconsult by Feb 2002. New permit implemented 5/16/00, but no evidence of reconsultation or concurrence by FWS. Used by same permittee in coordination w Cow Flat. 610 AUMs deduced from 2000 AOP. 1064 AUMs permitted in BO.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p134ff) Take exceeded if no improvement in watershed, soil, range riparian and stream channel.	EA for Cow Flat, Foote Ck, PS and Stone Ck allotments (1999 undated):- 1997 range analysis shows 30% in poor-fair cond'n. 30% watershed unsatisfactory No post BO survey in response to FOIA	NO
Take condition 2. Take exceeded if monitoring & report of utilization not on time	Log of rangeland monitoring 1999, 2000:- only midpoint and prelivestock monitored	NO
T&C 1.1 Determine livestock capacity by 9/30/00 and identify and implement changes if no improvement.	No documents in response to FOIA	NO
T&C 1.2 Continue fish monitoring	No documents in response to FOIA	NO
T&C 1.3 Complete watershed analysis of Blue R by 9/30/00 to identify and prioritize actions to assist in recovery of loach minnow.	Cumulative effects for Alpine RD Grazing allotments 3/13/00:- projection not measurement. EA for Cow Flat, Foote Ck, PS and Stone Ck allotments (1999 undated):- 30% watershed unsatisfactory, ADEQ 1996 turbidity exceeds std for W Fork Black R/ Beaver Ck.	NO
T&C 2.1 Survey for LM and assess habitat condition Foote Ck.	No documents in response to FOIA	NO
T&C 3.1 Monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout.. Report to FWS by 30 days from issuance of AOP	Log of rangeland monitoring 1999, 2000:- only midpoint and prelivestock monitored- exceeds 40% in W Thomas past in 1999	NO
T&C 3.2 Report to FWS	No documents in response to FOIA	NO

vii) Apache -Sitgreaves, Granville allotment (Loach Minnow)

FWS issued a BO "Grazing permit reauthorization on 7 allotments" dated 20-Jul-99 (Consult # 2-22-99-F-016) good for 10 years. Hayes 2670/2230 to Fowler Propst 2/15/00: - Allotment not stocked at this time" No information on stocking in 1999, 2001 in response to FOIA. Omitted from list of non-compliant allotments.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p38ff) take exceeded if <u>no improvement</u> in watershed, soil, range riparian and stream channel.	Hayes 2670/2230 to Fowler Propst 2/15/00 no evidence presented	Unk.
Take condition 3: exceeded if utilization monitoring reporting not on time	Hayes 2670/2230 to Fowler Propst 2/15/00 no evidence presented	Unk.
T&C 1.1 determine livestock capacity by Apr 15, 2000 and identify and implement changes if no improvement.	Hayes 2670/2230 to Fowler Propst 2/15/00: App A of DN/FONSI not received in FOIA response.	YES?
T&C 1.2 complete watershed analysis by 9/30/00 to identify and prioritize actions to assist in recovery of loach minnow.	Hayes 2670/2230 to Fowler Propst 2/15/00: not applicable	Unk.
T&C 2.1 Restrict livestock access to Eagle Ck.	Hayes 2670/2230 to Fowler Propst 2/15/00: not applicable	Unk.
T&C 2.2 Evaluate crossings to ensure occur in areas least likely to impact	Hayes 2670/2230 to Fowler Propst 2/15/00: not applicable	Unk.
T&C 2.3 Trailing of cattle on Eagle Ck in shortest time, not overnight, fewest crossings, when bankline moisture low.	Hayes 2670/2230 to Fowler Propst 2/15/00: not applicable	Unk.
T&C 2.4 survey of riparian habitat before and after moves in Eagle Ck pastures- submit report to FWS by Dec 31, 1999.	Hayes 2670/2230 to Fowler Propst 2/15/00: not applicable	Unk.
T&C 2.5 Check & repair enclosure fences in Eagle Ck	Hayes 2670/2230 to Fowler Propst 2/15/00: not applicable	Unk.
T&C 3.1 monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout. Report to FWS by 60 days from end of season.	Hayes 2670/2230 to Fowler Propst 2/15/00: "not stocked"	N/A
T&C 3.2: report to FWS	Hayes 2670/2230 to Fowler Propst 2/15/00	YES

viii) Apache -Sitgreaves, Nutrioso Summer allotment (Loach minnow)

FS must reconsult by Feb 2002.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p220ff) Take exceeded if no improvement in watershed, soil, range riparian and stream channel.	Range/Soil/Capability/Capacity analysis 12/8/98:- 2 of 3 inspections since 1978 excess utilization. 78-100% of range not meeting Plan Std D01. 75%-100% soils not meeting Plan Std. Riparian not meeting Plan Std C02. Utilization monitored only 1998. No post BO survey in response to FOIA	NO
Take condition 2. Take exceeded if utilization monitoring & report not in time.	Log of rangeland monitoring 1999, 2000:- only midpoint monitored	NO
T&C 1.1 Determine livestock capacity by 9/30/00 and identify and implement changes if no improvement.	Range/Soil/Capability/Capacity analysis 12/8/98:- capacity of 368 AUMs. No implementation documents in response to FOIA	YES
T&C 1.2 Complete watershed analysis by 9/30/00 to identify and prioritize actions to assist in recovery of loach minnow and spikedace.	Cumulative effects for Alpine RD Grazing allotments 3/13/00:- projection not measurement.	NO
T&C 2.1 Maintain enclosure from Black R	No documents in response to FOIA	Unk.
T&C 2.2 Fish monitoring program.	White to A-S Sup 11/20/00 "no fish monitoring".	NO
T&C 2.3 Protect Boneyard Ck from overuse.	No documents in response to FOIA	Unk.
T&C 2.4 Before turnout in 1999 exclude access to Boneyard Ck and main tributaries in Boneyard and N Springs pastures.	No documents in response to FOIA	Unk.
T&C 3.1 Monitor forage utilization during and 3 Weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout.. Report to FWS by 30 days from issuance of AOP	Settles to Patterson 8/22/00 early move into N Springs Settles to Patterson 9/8/00 excess use in N Springs 38-53% should be 25%. 3 more days allowed. Settles to Patterson 8/26/99 excess use in N Springs, 3 more days allowed Log of rangeland monitoring 1999, 2000:- only midpoint and prelivestock monitored.	NO
T&C 3.2 Report to FWS	No documents in response to FOIA	NO

ix) Apache -Sitgreaves, Pigeon allotment (Loach minnow)

FS must reconsult by Feb 2001.

x) Apache -Sitgreaves, Pleasant Valley allotment (Loach minnow)

FS must reconsult by Feb 2001.

xi) Apache -Sitgreaves, Red Hill allotment (Loach minnow)

FS must reconsult by Feb 2002

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p282ff). Take exceeded if no improvement in watershed, soil, range riparian and stream channel within allotment.	EAI/ AMP for Grandfather (PS) and Red Hill allotments (1999 undated):- Range mostly poor. W'shed 10% impaired or unsatisfactory, mostly "untreatable". Turbidity and pH exceed standards in some samples of Blue R. No post-BO survey in response to FOIA	NO
Take condition 2. Take exceeded if permitted livestock enter Blue R	No monitoring documents in response to FOIA	Unk.
Take condition 3. Take exceeded if monitoring & report of utilization not on time	Log of rangeland monitoring 1999:- only midpoint monitored. None in 2000	NO
T&C 1.1 Determine livestock capacity by 9/30/00 and identify and implement changes if no improvement.	No monitoring documents in response to FOIA	NO
T&C 1.2 Complete watershed analysis of Blue R by 9/30/00 to identify and prioritize actions to assist in recovery of loach minnow.	No analysis documents in response to FOIA	NO
T&C 2.1 Repair fences to maintain enclosure from Blue R	No monitoring documents in response to FOIA	Unk.
T&C 2.2 Protect riparian in Bush, Tutt and Foote Cks from overuse.	Settles to Stacys 3/29/99- 90% decid riparian use, 60% grass in Foote Ck riparian- allow 4 d to move. Settles to Stacys 2/23/00- 90% decid riparian use, 75% sheep fescue in Foote Ck riparian- allow 14 d to move. Settles to Marks 3/31/00- 70- 90% browse use in Foote Ck winter pasture- allow ? d to move.	NO
T&C 3.1 Monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout.. Report to FWS by 30 days from issuance of AOP	Settles to Stacys 3/29/99- 90% decid riparian use, 60% grass in Foote Ck riparian- allow 4 d to move. Settles to Stacys 2/23/00- 90% decid riparian use, 75% sheep fescue in Foote Ck riparian- allow 14 d to move. Settles to Marks 3/31/00- 70- 90% browse use in Foote Ck winter pasture- allow ? d to move. Log of rangeland monitoring 1999:- only midpoint monitored. None in 2000	NO
T&C 3.2 Continue fish monitoring	White to A-S Sup 11/20/00 "no fish monitoring".	NO
T&C 3.3 Report to FWS	No documents in response to FOIA.	NO

xii) Apache -Sitgreaves, Wildbunch (Loach minnow)

Subject of AGCA v FWS judgement 12/14/99. ITS set aside.

xiii) Apache -Sitgreaves, Williams Valley (Loach minnow)

FS must reconsult by Feb 2001. Non-use in 2000. Utilization <50% in 1999 all pastures.

b) Apache -Sitgreaves NF, Little Colorado River Spinedace

i) Limestone allotment

FS must reconsult by Feb 2002.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p182f). Take exceeded if no improvement of watershed, soils, range and riparian condition in the E Clear Ck watershed.	East Clear Ck Watershed Recovery Strategy (Sep 1999) does not record any improvements, only management schedule is proposed. PFC study (undated) found 40% of watershed at risk or non functional. Pakjos & Zdinak report 15 May 1992 p4 "Riparian communities within the East Clear Creek watershed have been severely impacted over time. There has been significant degradation in riparian conditions throughout the subwatershed examined between the 1946/48 and the 1990 [aerial photo] flights. Some riparian areas have been completely eradicated ." East Clear Ck Riparian Analysis 1995-1998. PFC analyses 1998. No post BO survey documents in response to FOIA.	NO
Take condition 2. Exceeded if livestock access Leonard Cyn	No monitoring documents in response to FOIA.	Unk.
Take condition 3. Monitoring reporting of utilization not on time.	No monitoring documents in response to FOIA.	NO
T&C 1.1 By 9/30/200 determine l'stock capacity and if no improvement identify and implement changes.	No documents in response to FOIA.	NO
T&C 1.2 complete watershed analysis by 9/30/00 to identify and prioritize actions to assist in recovery.	Multi-agency East Clear Ck Watershed Recovery Strategy (Sep 1999) ADGF Willow Ck Fish Management Report 1999	YES
T&C 1.3 In 1998 complete PFC analysis of riparian areas	PFC surveys 1998	YES
T&C 2.1 Livestock excluded from Leonard Cyn, Monitor if stock in adjacent pastures (Double Cani & O'Haco) . If access, vacate until fencing built.	Klein 2230/2670 to Palmer 3/5/99:- 1. set allowable at 25%, 2. no grazing in Ohaco, Double cabin, tentground, Wilkens until fence for Leonard Cyn; 3) No grazing in Ohaco, 5 mile, Double cabin if utilization exceeded before entry. No data presented. No implementation documents in response to FOIA.	NO
T&C 2.2 Check and repair exclusion fences Leonard Cyn, Dines Tank before entry to adj pastures.	as above	NO
T&C 2.3 herd out of meadows, riparian, Leonard Cyn	as above	NO
T&C 2.4 Protect wet meadows from over use.	as above	NO
T&C 2.5 Assess habitat conditions by 9/30/00.	USFS Wilkins Cyn Spinedace suitability assessment 11/12/99:- unsuitable.	YES
T&C 2.6 Establish and monitor annual fish monitoring stations.	ADGF Willow Ck Fish Management Report 1999	Incomplete
T&C 2.7 Check and repair exclusion fences.	Klein 2230/2670 to Palmer 3/5/99:- 1. set allowable at 25%, 2. no grazing in Ohaco, Double cabin, tentground, Wilkens until fence for Leonard Cyn; 3. No grazing in Ohaco, 5 mile, Double cabin if utilization exceeded before entry. No data presented. No implementation documents in response to FOIA.	NO
T&C 3.1 Monitor midpoint utilization limits and every 10 d thereafter until removal. Provide data to FWS 30d prior to AOP issuance.	No monitoring documents in response to FOIA.	NO
T&C 3.2 Annual report to FWS	Klein 2230/2670 to Palmer 3/5/99. No report for 2000	Partial

ii) Apache -Sitgreaves, South Escudilla allotment (Little Colorado River Spinedace)

FS must reconsult by Feb 2002. Non-use in 2000.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p328 ff). Take exceeded if no <u>improvement</u> of watershed, soils, range and riparian condition in the E Nutrioso Ck watershed.	Range/Soil/Capability/Capacity analysis 12/8/98:- 4 of 8 inspections since 1970 excess utilization. 74% range not meeting, 24% soils, Limited water qual in Nutrioso Ck. per ADEQ. 6/1/98 NO post BO survey. Riparian Condition 1/21/99: 1998 <u>condition univerrally LOW</u> . No post BO survey documents in response to FOIA.	NO
Take condition 2. Take not exceeded if monitor and report utilization on time.	Log of rangeland monitoring 1999;:- only prelivestock monitoring	NO
T&C 1.1 Determine livestock capacity by 9/30/00 and identify and implement changes if no improvement.	Production/ Utilization survey 1998:- 225 AUMs capacity, 522 permitted in BO.	YES
T&C 2.1 Livestock restricted from Milk, Hulsey Cks. if still access consider fence.	No monitoring documents in response to FOIA.	Unk.
T&C 3.1 Monitor forage utilization during and 3 weeks after end of season using established replicable method. Livestock moved when levels met. Range readiness criteria before turnout. Report to FWS by 30 days from issuance of AOP	Log of rangeland monitoring 1999;:- only prelivestock monitoring	NO
T&C 3.2:- Establish fish monitor stat'ns in Nutrioso Ck and monitor.	White to A-S Sup 11/20/00 "no fish monitoring".	NO
T&C 3.3:- Annual report to FWS	No documents in response to FOIA.	NO

iii) Apache-Sitgreaves NF, Colter Ck allotment

FS must reconult by Feb 2001 in any case. DN/FONSI issued 6/22/99 for reduced AUMs from 969 to 450 and add on 339 ac of Rudd Ck Winter as Nelson Pasture. 5014 of 6281 ac "full capacity range" in POOR condition. (EA for Milligan Ck Allotments 2/9/99)

c) **Apache -Sitgreaves NF, Mexican Spotted Owl**

i) Foote Ck allotment

FS must re-consult by Feb 2002. FWS supposed to finalize BO in later document.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p153ff). Take exceeded unless can <u>show improvement</u> in watershed, soil, range riparian and stream channel.	EA for Cow Flat, Foote Ck, PS and Stone Ck allotments (1999 undated):- 1997 range analysis shows 30% in poor-fair cond'n. 30% watershed unsatisfactory. No post BO survey documents in response to FOIA.	NO
Take condition 2. Take exceeded if monitoring & report of utilization not on time	Log of rangeland monitoring 1999, 2000:- only midpoint and prelivestock monitored	NO

ii) Apache -Sitgreaves, Limestone allotment (MSO)

FS must reconsult by Feb 2002.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p193). Take exceeded if no improvement of watershed, soils, range and riparian condition in pastures w PACs	East Clear Ck Watershed Recovery Strategy (Sep 1999) does not record any improvements, only management schedule is proposed. PFC study (undated) found 40% of watershed at risk or non functional. Pakjos & Zdinak report 15 May 1992 p4 "Riparian communities within the East Clear Creek watershed have been severely impacted over time. There has been significant degradation in riparian conditions throughout the subwatershed examined between the 1946/48 and the 1990 [aerial photo] flights. Some riparian areas have been completely eradicated ." East Clear Ck Riparian Analysis 1995-1998. PFC analyses 1998. No post BO survey documents in response to FOIA.	NO
Take condition 2. Monitoring & reporting of utilization not on time.	No monitoring documents in response to FOIA.	Unk.
T&C 1.1 By 3/1/99 provide FWS w list of key areas spp in PACs	Klein 2230/2670 to Palmer 3/5/99:- Maps of key areas and list of species.	YES
T&C 1.2 Implement management for good-excellent range in PACs. By 3/1/99 provide FWS w data to prove will happen	Klein 2230/2670 to Palmer 3/5/99:- 1. set allowable at 25%, 2. no grazing in Ohaco, Double cabin, Tentground, Wilkens until fence for Leonard Cyn; 3. No grazing in Ohaco, 5 mile, Double cabin if utilization exceeded before entry. No data presented. No implementation documents in response to FOIA.	Partial
T&C 2.1 Monitor utilization in pastures with PACs (Ohaco, 5 mile, Double cabin) prelivestock, midpoint and 7 d after moveout. Provide data to FWS 30d prior to AOP issuance.	No monitoring documents in response to FOIA.	NO
T&C 3.2 Annual report to FWS	Klein 2230/2670 to Palmer 3/5/99. No 2000 report in response to FOIA.	Partial

d) **Apache-Sitgreaves NF, Lesser Long Nosed Bat**

i) Sheep Springs/ Heber-Reno Sheep Driveway

Subject of AGCA v FWS judgement 12/14/99. ITS set aside.

2) COCONINO NF

a) Little Colorado R Spinedace.

i) Buck Springs Allotment

FS must reconsult by Feb 2002. Coconino NF proposed changes to the action that was the basis for the BO. USFWS modified the take statement in an amendment 21-apr-1999 (Region 2/ES-SE 000089RO)

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BO p69), studies of watershed, soils, range and riparian condition show improvement in the E Clear Ck watershed within allotment.	<p>* Water Quality Management Plan (undated)- cites AZ DEQ 196 study showing full compliance for W Clear Ck, Yeager Cyn, Barbershp Cyn not for E verde, Buck Spr Ck. Jacks Cyn not assessed.</p> <p>East Clear Ck Watershed Recovery Strategy (Sep 1999) does not record any improvements, only management schedule is proposed.</p> <p>PFC study (undated) found Upper Buck Springs was "functional at risk" (blamed on elk) except in enclosure where it is PFC. 40% of watershed at risk or non functional.</p> <p>USFS scoping document of 4/8/99 noted "Headwater meadows on the allotment are currently non-functional as riparian systems" (p 2)</p> <p>Buck springs Range Allotment Existing Soil and Watershed Conditions (Feb 1999)- 100% of soils in valley-plains unsatisfactory, 2000 ac impaired. 45% streams at risk or dysfunctional.</p> <p>Pakjos & Zdinak report 15 May 1992 p4 "Riparian communities within the East Clear creek watershed have been severely impacted over time. There has been significant degradation in riparian conditions throughout the subwatershed examined between the 1946/48 and the 1990 [aerial photo] flights. Some riparian areas have been completely eradicated."</p> <p>East Clear Ck Riparian Analysis 1995-1998- no analysis post BO</p> <p>Range Trend data 1963-1998 (no analysis post BO)</p>	NO
T&C 1.1	T&C no longer applies per amended BO	
T&C 1.2 "analysis of watershed condition and prioritization"	<p>* Water Quality Management Plan</p> <p>* East Clear Ck Watershed Recovery Strategy (Sep 1999)</p>	YES
T&C 2.1 (amended) Livestock excluded from Leonard Cyn, E Clear Ck (except crossing) monitor every 2 weeks if stock in adjacent pastures of Knolls, Dines, North, McCarty, M Battleground, N Pinchot). More than 12 head in canyon pastures, vacate until fencing built.	1999 Annual Report, 1999 AOP instructions. Rest all but N Pinchot & N Battleground. 3/1/99 Annual Report to FWS notes new enclosure fence in N Battleground. All T&C pastures rested in 2000 AOP. Electric fence in N Pinchot. AOP amend 23-jun-99 notes "cattle in N Pinchot, Knolls" when not supposed to be. Cattle in Merritt Enclosure- warning issued.. AOP amend 25-may-2000 warning trespass in enclosure on Pivot Rock Allot & Potato Draw. Whitney 27-jun-00 Gonzales 29-jun-00 2 head from Buck Spr in E Clear Ck, fence down. 4/28/2000 Report to FWS affirms "monitoring...in the creek bottoms occurred at least once every two weeks".	YES
T&C 2.2 Herd cattle out of wet meadows and riparian areas.	1999 AOP electric fence N Pinchot. 4/28/2000 Report to FWS affirms that permittee hired a herder, but concludes has not been effective . Cattle broke into enclosed pastures through unrepaired fences. Impacts were "fairly high".	NO
T&C 2.3 Protect wet meadows from "overuse"	AOP amend 25 may 2000 - failure to maintain fences before entry Dines Enclosure & Knolls. 4/28/2000 Report to FWS affirms meadows were protected.	YES
T&C 2.4 (amended) N Battleground Pasture not used until fence in place to exclude E Clear K, Knolls pasture...	3/1/99 Annual Report to FWS notes new enclosure fence in N Battleground. 4/28/2000 Report to FWS affirms McCarty not used in 1999.	YES
T&C 2.5 Biologist monitors designated crossing E Clear Ck and clearance statement issued by fish biologist before cattle were allowed to cross.	6/16/99 sample- no spinedace- crossing not used anyway	YES
T&C 2.6 Assessment of spinedace habitat on the allotment and report required to be produced by Sept 30,2000.	No report in response to FOIA.	NO
T&C 2.7 Records of fish monitoring and maps of locations of fish monitoring stations established on E Clear Ck as well as description of methods used to reduce "adverse	4/28/2000 Report to FWS p 7. No Little Colo. R. Spinedace captured at five stations. No methods description given beyond promised coordination between services to avoid redundant sampling.	YES

impacts of over sampling'.		
T&C 2.8 Check and repair fences for exclosures on Leonard & E Clear Ck.	Fence monitoring reports for unknown pastures only for jul-oct 2000 4/28/2000 Report to FWS admits failure of fence monitoring in 1999	NO
T&C 3.1 When utilization limits met, livestock moved from pasture	AOP amend 6/23/99- utilization exceeds limit 50% in Aspen Spr, 70% Houston Draw. 10 day notice to remove given. 4/28/2000 Report to FWS affirms gross forage utilization of up to 80% in pastures grazed by livestock, exceeding Forest Plan prescriptions. USFS attempts to separate use by cattle from that by other ungulates, in violation of Forest Plan.	NO
T&C 3.3 Annual report to FWS	3/1/99 and 4/28/2000 Reports to FWS	YES
T&C 3.4 Coordination "to reconsider effects and possible management opportunities for the spinedace"	DN for LC R Spinedace Hab Prot'n & restor'n	YES

3) CORONADO NF

a) Sonora Chub (BOR3)

i) Bear Valley allotment

Must reconsult Feb 2002.

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C 1.1 (BOR3 p 42ff) determine livestock capacity	Docs not requested, not in report to FWS	Unk.
T&C 1.2 Watershed analysis to be completed by 9/30/00	Docs not requested, not in report to FWS	Unk.
T&C 2.1 By 9/30/00 survey of nonnative fishes in Sycamore Ck watershed, schedule of inspections & control methods	Nogales RD report 1999:- "some stock tanks and stream sections have been inventoried" for non-native fishes in Sycamore Ck and California Gulch. Exclosures built 1998, inspected 1999.	NO
T&C 3.1 Monitor utilization and enforce criteria.	1999 report to FWS. Range management:- Bear Valley administered to standard	Unk.
T&C 3.2 Report to FWS	McGee to Harlow 7/21/00	YES

ii) Montana allotment

Subject of AGCA v FWS judgement 12/14/99. ITS set aside.

b) Yaqui Chub

i) West Turkey Ck allotments

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C2 BOC p297ff monitor fish populations per El Coronado Ranch HCP, West Turkey Ck Native Fish Hab restoration project.	1999 monitoring report- poisoning of creek 6/99. Restock with natives "scheduled for spring 2000 but has not taken place" Yaqui Chub were found on 50% of the sample sites" In 99-2000 grazing season, no grazing in watershed.	YES

c) **Coronado NF, Lesser Longnosed Bat**

i) 152 allotments (BOC Table 14)

No hard evidence of non-compliance. Omitted.

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C1.1 p147ff "The Forest shall develop a <u>mitigation plan</u> ... for each range or road maintenance action.. within 1.6 km... of any known roost"	Manila Tank Cleanout BAE 5/22/00:- "no mitigation needed". Location data redacted so unable to judge if condition met.	Unk.
T&C 3.1 Report to FWS	Cave of Bells monitoring 10/1/99 found no LLN bats "Forestwide results" ~10,000 flyout count Patagonia bat cave. Manila Tank Cleanout BAE 5/22/00:- "no mitigation needed"	YES

ii) Bear Valley allotment

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C1 (BOR3 p48ff) Determination of livestock capacity required to be issued by 9/ 30/ 2000	No documents in response to FOIA.	NO
T&C 2 by 4/15/99 (a) evaluate abundance & distribution of <i>Agaves palmeri, paryi & deserti</i> and saguaro identify high density areas & prevent herbivory of stalks OR (b) forest-wide analysis of food sources and monitoring/research plan	No documents in response to FOIA.	NO
T&C 3.1 Monitoring of forage utilization	<i>1999 Report to FWS. Range Management:-</i> monitored to standard.	Unk.
T&C 3.2 Annual monitoring report to FWS 30 days prior to AOP issuance	Cave of Bells monitoring 10/1/99 found no LLN bats "Forestwide results" ~10,000 flyout count Patagonia bat cave. Manila Tank Cleanout BAE 5/22/00:- "no mitigation needed"	Unk

iii) Montana

Subject of AGCA v FWS judgement 12/14/99. ITS set aside.

iv) Coronado NF, Dragoon and Paradise allotments, (Lesser Long Nosed Bat)

BO7 issued for 10 year permit.

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C 1 (BO7 p36ff) Determination of livestock capacity required to be completed by 4/15/2000	No documents in response to FOIA.	NO
T&C 2 by 4/15/00 (a) report to evaluate abundance & distribution of <i>Agaves palmeri, paryi & deserti</i> and saguaro identify high density areas & prevent herbivory of stalks OR (b) forest-wide report on food sources and monitoring/research plan	No documents in response to FOIA.	NO
T&C 3.1 Monitoring of forage utilization	1999 report to FWS. range management:- Dragoon administered to standard, Paradise not to standard	NO
T&C 3.2 Annual report to FWS 60 days after last day of season	See above	Unk.

d) **Coronado NF, New Mexico Ridgenosed Rattlesnake**

i) 10 allotments (Walnut Cyn, Clanton-Cloverdale, Fairchild, Geronimo, Graves, Guadalupe, Maverick, Outlaw Mtn, Robertson, Skeleton Cyn.)

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C1 BOC p169ff mitigation plan for each range project or road maintenance above 5000 ft.	No documents in response to FOIA.	NO.
T&C 4 Determine & validate soil conditions on Walnut Cyn by 7/31/00, management to change by 6/01; Investigate soil condition on Fairchild, Maverick & Geronimo.	Lefevre 7/12/2000: Walnut Cyn soil condition:- No sites "unsatisfactory" despite "compaction" and "poor root distribution" "vindicates" dormant season use. No soil data in response to FOIA.	NO
T&C 5b annual report to FWS	McGee to Harlow 7/21/00	YES

e) **Coronado NF, Cactus Ferruginous Pygmy Owl**

"survey data documenting presence or absence of the CFPO is lacking for the allotments" BOC p208. Coronado National Forest documents indicate has met survey area requirements.

Condition	Documents responsive to FOIA requests	Meets T&C?
ITS BOC p208 ff surveys for CFPOs on at least 2,000 ha (5,000 ac) of the Coronado <u>per year</u>	Santa Catalina RD report 1999. 2700 acres surveyed on RD. 62 habitat assessments, No CFPOs. Nogales RD report 1999. 2300 acres surveyed, 58 habitat assessments. No CFPOs. None in Sycamore Cyn, historical locality.	YES

f) Coronado NF, Mexican Spotted Owl

- i) 15 allotments (Lone Mountain, Mescal, Rak, Rough Mountain, Price Canyon, Apache Springs, Alto, McBeth, Pena Blanca, Harshaw, Weiland, Riley Peak, High Ck, Deer Ck)

MSO monitoring report by Kuklinski E.M. Aug'99 deals with Pinalaños only. "Forest-wide results" undated does not deal with Lone Mtn & Mescal allots.

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C 1 (BOC p226ff)."Implement and enforce grazing restrictions ... within the Lone Mountain and Mescal allotments"	<i>1999 Report to FWS. Range Management</i> :- earlier use than permitted, permittee removed livestock. Inspection sheet 8/31/00:-Mescal utilization<5%	Unk.
T&C2a Maps of key foraging areas and key species to be provided to FWS by Jan 2000.	No documents in response to FOIA.	NO
Condition on Concurrence 1. BOC p370ff. Identify riparian areas in PACs	<i>1999 Livestock grazing biological opinion concurrence requirement report</i> (no date, author) includes maps of areas for 14 allotments.	YES
Condition on Concurrence 2. preclude grazing or restrict utilization in riparian areas in PACs to levels in amended Plan required by 7/29/00	<i>1999 Livestock grazing biological opinion concurrence requirement report</i> (no date, author):- determination on accessibility has not been completed for Rak, Rough Mountain, Price Canyon, Apache Springs, Alto, McBeth, Pena Blanca, Harshaw, Weiland, Riley Ck, High Ck, Deer Ck allots. <i>1999 Report to FWS. Range Management</i> :- "we are not administering all our allotments to standard"	NO

g) Coronado NF, American Peregrine Falcon

- i) Agua Caliente, Murphy and Ramanote allotments

Some surveys done. Would need more complete record of "disturbing and noisy activities" to judge whether compliant. Omitted.

Condition	Documents responsive to FOIA requests	Meets T&C?
T&C 1 (BOC p179). Monitor known nest & breeding sites- no surface disturbing or noisy activities within .8km of active eyries March- July 15.	Species Occurrence Records to AzDGF 7/8/99 on Ramanote, 6/13/99, 6/12/99, 4/26/99, 6/25/99. Newman 7/8/99 <20% use by cattle in APF territory Ramanote Cyn. FORESTWIDE RESULTS undated:- summarizes 1999 monitoring incl Ramanote. Nogales RD report 1999:- "completed to a lesser standard"	Unk.

h) Coronado NF, Gila Topminnow

i) Siebold, Crittenden, Kunde, San Raphael, Papago-Z Triangle (all in Redrock Canyon)

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 2b. Take exceeded if livestock browse over 5% inside enclosure, or damage 10% of streambanks	1999 report to FWS. range management:- Kunde in non use until 2007	Unk.
Take condition 2c. Take exceeded if no reversal of downward trend in Sonoita Ck watershed on <u>Papago-Z Triangle</u> or <u>San Rafael</u>	No documents in response to FOIA.	NO
Take condition 2e. Take exceeded if 50% utilization or more	1999 report to FWS. range management:- all allots administered to "standard"	Unk.
T&C 1c (BOC p286ff). "Implement and enforce grazing restrictions ... within the Lone Mountain and Mescal allotments". Monitor utilization & impacts before, during and after cattle in pasture.	Docs requested. Only one monitoring sheet for Mescal in response.	NO
T&C 1e. Survey "of all nonnative aquatic invertebrate species from the stock tank in the tributary of upper Oak Grove Canyon" as required by 7/29/00	No documents in response to FOIA.	NO
T&C 1i. Inspections "three times a year" of four existing cattle enclosures in Redrock Canyon.	1999 report to FWS. range management:- enclosure empty in San Raphael, Kunde in non use. Other two enclosures?	NO
T&C 2a. Implementation of the Forest's drought policy for "Redrock, Alamo, Corral, Dark and Monkey Canyons"	Letter to permittees from McGee 2/17/00:- warning of low rainfall problem	
T&C 2c. Annual interagency impact review.	No documents in response to FOIA.	NO
T&C 2d. "cumulative and aggregative analysis of the water usage in Redrock Canyon and its possible effects on streamflow in the main channel or tributaries. subject to approval by the Service" and required by 7/29/00	Redrock Ck Water Balance report 9/26/2000	LATE
T&C 3a. Records of biological monitoring during any "range project activities such as fence construction, road work, or water development or improvement within 45 m of Redrock Canyon stream channel or tributaries.	No documents in response to FOIA.	NO
T&C4b Annual report to FWS	Sierra Vista RD report:- Annual Gila Topminnow survey said to be done but no data shown McGee to Harlow 7/21/00	Unk.

4) GILA NF

a) Loach Minnow and Spikedace

i) Sapillo allotment

Andre 6270 to CBD 11/28/00 FOIA response "In December 1999, permitted numbers were adjusted from 808 cattle to 15 cattle.... currently no livestock in the watershed that may affect loach minnow and spikedace". Omitted.

5) TONTO NF

a) Lesser long-nosed Bat

i) Chrysotile and Hicks/Pike Peak allotments

USFS must reconsult by Feb 2002.

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BOR3 pp 90-92). Studies of watershed, soils and range condition to show improvement in conditions for areas of high agave and saguaro density	Siderits to CBD 12/2/9/00: "No documents responsive"	NO
Take condition 2. Monitoring agave and saguaro densities before and after sheep grazing	Siderits to CBD 12/2/9/00: "No documents responsive"	NO
T&C 2.1 Modified by Harlow to Siderits (12/8/2000) - surveys of LLN bat & report by 8/1/2002	11/18/99 Bat meeting Tonto NF	N/A
T&C 3.1 Utilization monitoring required to submit to FWS 30 days prior to AOP issuance	Siderits to CBD 12/2/9/00: "may find a record(s) in January"	NO
T&C 3.2 BOR3 p90ff. Annual report to FWS	Siderits 6270 to CBD (12/12/00) "no records were identified"	NO

b) Tonto NF, Razorback Sucker

i) Hicks/Pike Peak allotment

USFS must reconsult by Feb 2002. USFS must reconsult by Feb 2002. BO pp90 -93

Condition	Documents responsive to FOIA requests	Meets T&C?
Take condition 1 (BOR3 pp 162-4). studies of watershed, soils and range condition to show improvement in conditions in Salt R watershed	Siderits to CBD 12/2/9/00: "No documents responsive"	NO
T&C1.1 Analysis of allotment capacity by 9/30/00	Siderits to CBD 12/2/9/00: "No documents responsive"	NO
T&C 2.1 Maps of key areas, records of forage utilization	Siderits to CBD 12/2/9/00: "No documents responsive"	N/A
T&C 2.2 Utilization monitoring Lower Shute, Lower Redmond & Ortega Pastures	Siderits to CBD 12/2/9/00: "The pastures was [sic] not grazed so monitoring was not needed"	YES
T&C 2.3 Records of monitoring of streambanks along Salt River using replicable methods.	Siderits to CBD 12/2/9/00: "The pastures was [sic] not grazed so monitoring was not needed"	YES
T&C 3.1 Utilization monitoring required to submit to FWS 30 days prior to AOP issuance	Siderits to CBD 12/2/9/00: "No documents responsive"	NO
T&C 3.2 Submit annual report to FWS	Siderits 6270 to CBD (12/12/00) "no records were identified"	NO

c) Tonto NF, Gila Topminnow

i) Sears Club/Chalk Mountain allotment

Subject of AGCA v FWS judgement 12/14/99. ITS set aside.

TABLE 2. US Forest Service Southwestern Region grazing allotments not in compliance with Terms and Conditions of incidental Take Statements of recent Biological Opinions.

Species	Forest	Allotments	BO*
Loach Minnow and/or Spikedace	Apache-Sitgreaves	Boneyard, Bush Creek, Cow Flat, Foote Ck, Nutrioso Summer, Red Hill	BOR3
Little Colorado R Spinedace	Apache-Sitgreaves	Limestone, South Escudilla,	BOR3
	Coconino	Buck Springs,	BOR3
Razorback Sucker	Tonto	Hicks/Pikes Peak	BOR3
Gila Topminnow	Coronado	Siebold, Crittenden, Kunde, San Raphael, Papago-Z Triangle	BOC
Sonora Chub	Coronado	Bear Valley	BOR3
Mexican Spotted Owl	Apache-Sitgreaves	Foote Ck, Limestone	BOR3
	Coronado	Lone Mountain, Mescal, Rak, Rough Mountain, Price Canyon, Apache Springs, Alto, McBeth, Pena Blanca, Harshaw, Weiland, Riley Ck, High Ck, Deer Ck.	BOC
Lesser Long Nosed Bat	Coronado	Bear Valley	BOR3
		Dragoon & Paradise	BO7
	Tonto	Chrysotile, Hicks/Pike Peak	BOR3
New Mexico Ridgenosed Rattlesnake	Coronado	Walnut Cyn, Clanton-Cloverdale, Fairchild, Geronimo, Graves, Guadalupe, Maverick, Outlaw Mtn, Robertson, Skeleton Cyn	BOC

*** Key to BOs**

BOR3:- "Biological Opinion for Southwest Region U.S. Forest Service. Ongoing Livestock Grazing Activities on allotments" 3/2/1999

BOC:- "Biological Opinion Ongoing and Long-Term Grazing on the Coronado National Forest" 7/29/99 (AESO/SE 2-21-98-f-399)

BO7:- "Grazing permit reauthorization on 7 allotments" 7/20/99 (AESO/SE 2-22-99-F-016)

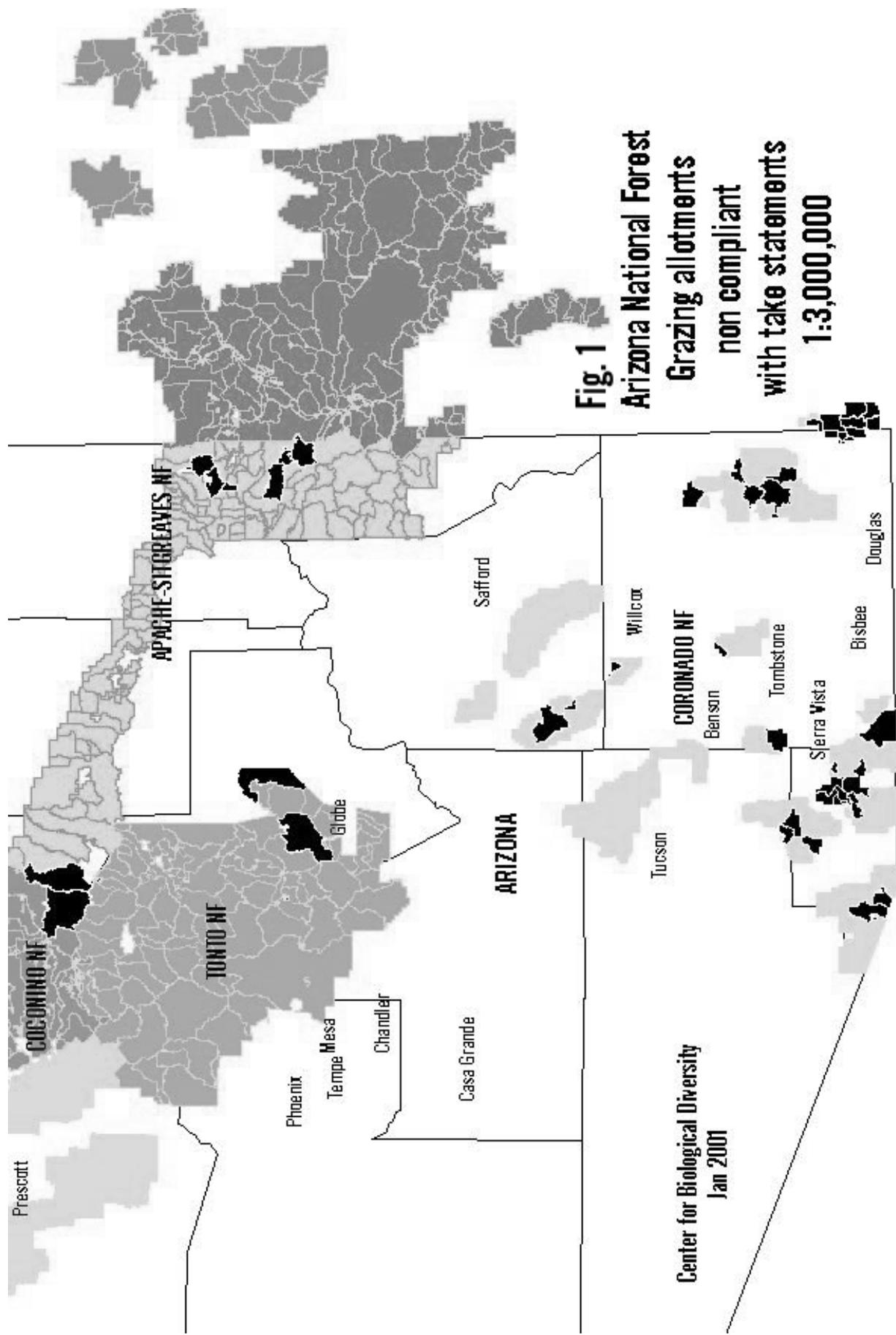


Fig. 1
Arizona National Forest
Grazing allotments
non compliant
with take statements
1:3,000,000

Center for Biological Diversity
 Jan 2001