

**CALDERA ACTION
REVIEW OF MUSY-FORAGE DRAFT FONSI
AND
SUMMARY RESPONSE TO COMMENTS**

OVERVIEW

We appreciate the opportunity to comment on the MUSY-Forage Draft FONSI and Summary Response to Comments. However, the FONSI itself is perfunctory and the Summary Response is so abbreviated that many individual concerns have been lost or omitted (only 10 of approximately 50 Caldera Action concerns are specifically addressed in the Summary). Therefore, Caldera Action requests that the 30-day FONSI review be extended to 30 days following the release of detailed responses to EA comments. This will help permit a meaningful review of the FONSI and responses.

The following comments are organized in two parts: 1) comments on the FONSI itself, and 2) comments of the Summary Response. This was necessary because the FONSI contains little substantive discussion of many EA issues and concerns, while the Summary Response at least discussed some of the many issues and concerns raised in our EA review. Please consider our comments on the Summary Response as comments on the FONSI itself, since both address the central issue of the Trust's improper Finding of No Significant Impact.

In summary, the proposed Finding of No Significant Impact contained in the draft FONSI for the proposed action is both unsupported, and is directly contradicted by the impacts described in the Environmental Assessment. The EA identifies multiple impacts on the human and natural environment due to this proposed federal action, impacts that are clearly and deeply significant to the public users, the ecology and the natural resources of this magnificent National Preserve. It is clear that no implementing grazing action based on this flawed document can be authorized by the Trust without risking the prospect of a court challenge and protracted litigation.

REVIEW OF DRAFT MUSY-FORAGE FONSI

Page 1, 2. Terminology, first bullet:

The FONSI is a document “briefly presenting the reasons why an action...will not have a significant effect on the human environment.”

Comment: This draft FONSI fails to present the reasons why it is asserted that the proposed MUSY-Forage action will not have a significant effect on the human environment. For example in FONSI Section 3.2.1, “Effects to the natural environment were predicted to be minor to moderate...” Are these effects insignificant? Significant? Why not? On the other hand, the EA found that grazing would not be a significant factor in attaining financial self-sufficiency for the Preserve. Thus we have no significant benefits, yet the proposed action may have potentially significant impacts.

Page 2, Section 3.1 Compliance with NEPA

Comment: Both the FONSI and the EA fail to show WHY the proposed action does not fall clearly into either an EIS or EA category. In fact, both the FONSI and the EA state that long-term programs for the management of livestock would normally require preparation of an EIS, while only livestock actions anticipated to be short term and minor in scope would be appropriate for EA treatment. This clearly indicates that an EIS is required for the proposed action, which according to the EA, is programmatic; “This action is programmatic in nature, intended to guide or prescribe both current and future activities on the Preserve.” (page 25, Section 1.3.1 Proposed Action-Goals, Objectives and Monitored Outcomes). Quoting NEPA Supplementary information to the effect that the Trust can conveniently ignore its own NEPA procedures if it chooses does not inspire public confidence in the process.

Page 5, 3.2.3 Public Comments, second paragraph-last sentence:

“The review...did not indicate that significant controversy exists regarding the predicted effects and outcomes.”

Comment: Caldera Action disagrees strongly with his statement. A total of 91 entities commented on the EA, with some reviewers expressing multiple concerns, including Caldera Action’s approximately 50 individual issues and concerns. Many of these concerns reflect a significant level of public controversy regarding the predicted effects and outcomes of the proposed action and the alternatives.

REVIEW OF SUMMARY RESPONSE TO COMMENTS

Page 5, 2.3.1. Management Goals and Operation as a Working Ranch, Response-first paragraph:

“The EA makes no statement that grazing is *required*.”

Comment: This is a disingenuous statement. ALL of the action alternatives include domestic livestock grazing. Four of the five action alternatives would MAXIMIZE livestock grazing after accounting for allocation of forage to protect ecosystem processes and accommodate elk and other herbivore wildlife depending on current conditions. If grazing is not required, the EA should include action alternative(s) which contain no grazing, to achieve a reasonable range of alternatives for consideration which is required under NEPA.

Page 5, 2.3.1. Management Goals and Operation as a Working Ranch, Response-second paragraph, second sentence:

“The Framework continues that a working ranch ‘runs a sustainable level of livestock...’”

Comment: This is an example of circular reasoning: the Trust includes grazing in all the EA action alternatives because the Trust previously published a Framework document asserting that a working ranch must run livestock. To reiterate our EA comment, nothing in the original Act requires domestic livestock grazing.

Page 9, 2.4.2. Use of Qualitative Information, Summary-third sentence:

“, the Trust has determined that there is not a substantial dispute as to the size, nature or effect of the proposed MUSY-Forage.”

Comment: This determination is contradicted by the conclusions of the EA itself. For example, previous Caldera Action comments on EA pages: 4, 19, 28, 41, 48, 110, 129, 146, 210, 211, 212, 213, 214, and 215 each raise substantial questions regarding the size, nature or effect of the proposed action. This would appear to constitute a substantial dispute, especially considering the hundreds of questions and challenges raised by the remaining 90 commenting entities.

Page 10, 2.5 Scope of the Analysis, Response-third paragraph, third sentence:

“The NEPA Procedures of the Trust...describe comprehensive management of the Preserve as a dynamic process including ‘all stewardship registers, the State of the Preserve and the strategic guidance adopted by the Board of Trustees.’ as opposed to a static document. The Trust is well within the Act and its NEPA procedures to limit the scope of the analysis.”

Comment: Neither the NEPA procedures nor a mish-mash of individual actions are a substitute for development of “a comprehensive management program for management of the lands, resources and facilities within the Preserve” by 2004 as mandated by the Act.

NEPA procedures do NOT guide comprehensive management of the Preserve. Comprehensive planning requires NEPA analysis, not the other way around. The Trust has not developed a NEPA-compliant CMP and in the absence thereof cannot use a limited-scope EA to perform the function of comprehensive planning.

To reiterate our EA comment, this narrowly defined forage action clearly and deliberately violates the Act requirement for development of a comprehensive management program for the Preserve. A statement to this effect should be included in Section 3.9.10 of the EA to provide information needed for the proper consideration of significant impacts as identified by the CEQ.

Page 10, 2.5 Scope of the Analysis, Response-fifth paragraph:

“Long-term programs for access and use of the Preserve including development cannot be identified to a reasonable foreseeable degree.”

Comment: After seven years of Trust control and five years after the mandated development of a comprehensive management program for the Preserve, this statement is a telling commentary on the lack of comprehensive planning and management under the present Trust structure.

Page 11, 2.6.1. Requirements of NEPA and the NEPA Procedures of the Trust, fifth paragraph:

“The EA, in Chapter 1, Section 1.6 quotes the types of actions (relative to MUSY-Forage) that normally require the preparation of an EIS and an EA, and why the proposed MUSY-Forage does not clearly fall into either category, thus the determination by the Trust to prepare the EA.”

Comment: The EA fails to show WHY the proposed action does not fall clearly into either category. In fact, the EA states that long-term programs for the management of livestock would normally require preparation of an EIS, while only livestock actions anticipated to be short term and minor in scope would be appropriate for EA treatment. Quoting NEPA Supplementary Information to the effect that the Trust can conveniently ignore its own NEPA procedures if it chooses does not inspire public confidence in the process.

Page 12, 2.6.2 Length of the EA, Summary-second sentence:

“Ultimately the FONSI was based on the (Trust’s) determination that the alternatives being considered in the EA would not significantly affect the human environment...”

Comment: This unsupported assertion lacks any discussion or documentation of the ten CEQ elements of significance to be considered for a proposed federal action. The EA discussion of elements of significance in Section 3.9 does not indicate which of the many impacts are significant and which are not. This is a critical omission, which leaves the Board of Trustees without any basis for determining whether or not the proposed action would significantly affect the human environment.