

# **Decision Notice for the Apache Leap Special Management Area Plan and Amendment to the 1985 Tonto National Forest Plan**

USDA Forest Service  
Globe Ranger District, Tonto National Forest  
Pinal County, Arizona

## **Introduction**

The Forest Service is proposing changes to the current management of an area within the Globe Ranger District of the Tonto National Forest designated as the Apache Leap Special Management Area (Figure 1).

In December 2014, Congress set forth the establishment of the Apache Leap Special Management Area (Apache Leap SMA) through the *Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015* (NDAA).<sup>1</sup> *Section 3003(g)(5)(a) of the NDAA* directs the Forest Service to prepare a special management plan for the Apache Leap SMA in consultation with affected Indian tribes, the Town of Superior, Resolution Copper Mining, LLC (Resolution Copper), and interested members of the public.

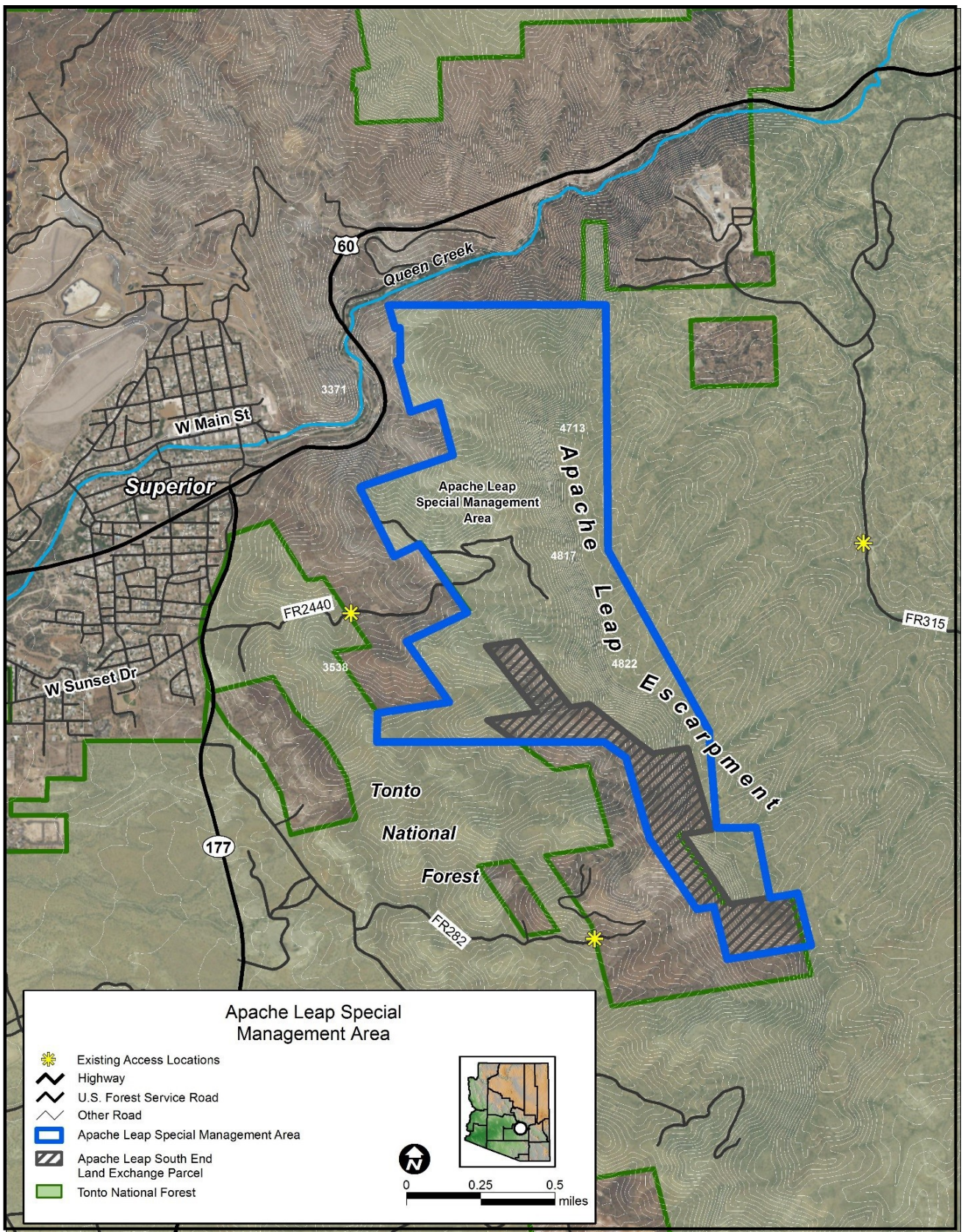
The Proposed Action is to: (1) prepare and adopt a programmatic management plan for the approximately 839-acre Apache Leap SMA; and (2) amend the 1985 Tonto National Forest Land and Resource Management Plan (forest plan) to address the recently designated Apache Leap SMA as a new special management area within the forest plan.

The purpose of the Proposed Action is to develop and adopt long-range direction for managing natural and cultural resources and human uses of the newly designated Apache Leap SMA. The Proposed Action is intended to: (1) meet the need to fulfill the requirements outlined in *NDAA Section 3003(g)* to prepare and approve a management plan for the Apache Leap SMA; and (2) meet the requirements at *36 Code of Federal Regulations (CFR) 219.13* to amend a forest plan when there are changed circumstance(s) affecting the management of a national forest. In this case the changed circumstance is the Congressional designation of the Apache Leap SMA. The environmental assessment (EA) documents the analysis of the Proposed Action and the No Action alternative.

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<sup>1</sup> *Public Law [PL] 113–291*, 113th Congress, 2014.





**Figure 1.** Apache Leap SMA boundary.Final Decision Notice



# **I. Adopting the Apache Leap SMA Management Plan**

## **Decision and Reasons for the Decision**

I have read the Apache Leap Special Management Area Management Plan Environmental Assessment and Finding of No Significant Impact (EA/FONSI), reviewed the analysis in the project record, including documents incorporated by reference, and fully understand the environmental effects disclosed therein. Based upon my finding of no significant impact; review of the two alternatives analyzed in the EA, the No Action and Proposed Action; and comments received from the public for this project, I have decided to implement the Proposed Action.

The Proposed Action will provide a comprehensive set of plan components (i.e., desired conditions, standards, objectives, guidelines, and land suitability determinations) for managing and protecting the natural and cultural resources within the Apache Leap SMA.

The reasons for my decision are described below with a focus on: (1) meeting the project purpose and need; and (2) addressing relevant issues and concerns raised by the public.

### **Meets the Purpose and Need**

The Proposed Action will fulfill the requirements outlined in *NDAA Section 3003(g)(5)* to prepare a management plan no later than 3 years after enactment of the Act (e.g., no later than December 2017). The Proposed Action will also meet the need of amending the forest plan to recognize the establishment of a special management area designated by Congress.

The Proposed Action will meet the purpose and need to provide strategic guidance for managing future activities within the Apache Leap SMA. The set of new plan components, developed using an interdisciplinary method, forms a management framework to ensure that future site-specific decisions align with the primary purposes for which the area was designated. These primary purposes are: (1) to preserve the natural character of Apache Leap, (2) to allow for traditional uses of the area by Native American people, and (3) to protect and conserve the cultural and archaeological resources of the area (*NDAA Section 3003(g)(2)*).

The Proposed Action will preserve the natural character of Apache Leap SMA. The management plan will strengthen the visual quality objectives and scenic integrity objectives beyond their current levels to “Retention” and “High,” which will help ensure that all future proposed projects are designed to blend with the natural setting. Future implementation of other resource actions will also help to preserve the natural character of the Apache Leap SMA, including managing vegetation for its natural composition and decommissioning of abandoned mining roads. Livestock grazing would be excluded from the Apache Leap SMA to protect natural vegetation and soils, thereby also enhancing the natural character and scenic qualities of the Apache Leap SMA. Finally, the plan components state that the natural character and associated values, including natural quiet, dark skies, and limited encounters with other visitors, shall take precedence over recreation uses where conflicts occur. The “Natural Character and Scenery” section of the EA analyzed the potential impacts to natural character, and determined that the Proposed Action will have a net beneficial effect on natural character.

The Proposed Action will allow for traditional uses of the Apache Leap SMA by Native American people. Where activities may affect places important to tribes, the Forest Service will work to avoid impacts to the fullest extent of laws and regulations. Overnight camping would be prohibited to help ensure that traditional use areas and resources are protected. Livestock grazing would be excluded from the Apache Leap SMA, which would improve conditions for vegetation, including important plant species used by tribal members. The management plan will also provide access to tribes for

traditional uses, by ensuring that public access points remain open and that tribes may request temporary closures for traditional cultural purposes.

All future decisions in the Apache Leap SMA will also require tribal consultation in the early stages of planning, which will ensure that the tribes continue to be involved in the management of the area. The “Tribal” section of the EA analyzed the potential impacts to tribal resources, and determined that the Proposed Action will have a net beneficial effect on tribal resources.

The Proposed Action will protect and conserve the cultural and archaeological resources of the Apache Leap SMA. The exclusion of livestock grazing from the Apache Leap SMA would reduce the risk of grazing animals trampling cultural and historic sites. The evaluation of roads for decommissioning to non-motorized trails would reduce motorized traffic to the site and help preserve cultural and historic resources in place where possible. Limits on construction of new infrastructure will also be a net benefit, as this will reduce impacts to archaeological sites. The “Cultural/Historic” section of the EA analyzed the potential impacts to cultural and historic resources and determined that the Proposed Action will have a net beneficial effect on cultural and historic resources.

## Addresses Relevant Issues and Public Concerns

During project scoping, four broad themes emerged from the comments raised by the consulting parties and the public. I directed the interdisciplinary team to use these four themes during refinement of the proposed management plan and to consider their relevance during the assessment of environmental effects.

### Tribal Interests and Cultural Resources

Concerns were raised about how the Forest Service would manage the Apache Leap SMA to prioritize the area’s importance to Indian tribes above other resources and uses; and how the Forest Service would ensure that tribes could continue their use of traditional and ceremonial sites within the Apache Leap SMA. I heard concerns about how the Forest Service should consider impacts to and protection of the *Chí’chil Bildagoteel* Historic District, which the majority of the Apache Leap SMA is part of, and which is listed as a Traditional Cultural Property in the National Register of Historic Places (National Register). Concerns were also raised about how the Forest Service would protect other features in the Apache Leap SMA that are eligible for listing in the National Register.

The Proposed Action includes several plan components that are responsive to these concerns about tribal interests and cultural resources.

Statements describing the desired tribal and cultural resource conditions include the following:

- Tribal members have access to the Apache Leap SMA for individual and group prayer and traditional ceremonies and rituals. There are opportunities for solitude and privacy for ceremonial activities.
- Traditional uses such as the collection of medicinal plants and wild plant foods are valued as important uses. Traditionally important plant species are available for traditional uses. Healthy populations are sustained or expanded within the Apache Leap SMA.
- Heritage resources are preserved in place wherever feasible. Archaeological sites are protected from vandalism, looting, and other forms of human-caused deterioration. Excessive forms of natural deterioration such as gully erosion and animal trampling/burrowing that threaten the integrity of features or cultural deposits are rare or not evident on the landscape. Adverse effects from management activities, visitor impacts, and damaging levels of natural deterioration are mitigated.

Management standards and guidelines for future site-specific projects will require that:

- Tribal perspectives, needs, and concerns should be prioritized. Where activities may affect places important to tribes, the Forest Service should work to avoid impacts to the fullest extent of applicable laws and regulations.
- Projects include tribal input on the criteria for monitoring and maintaining the archaeological sites, traditional use areas, and natural resources.
- The responsible line officer should work with Indian tribes to comply with the Cultural and Heritage Cooperation Authority (25 *United States Code* 3054), under which the tribes may request temporary closures of specific areas for traditional cultural purposes.

See the “Tribal” and “Cultural/Historic” sections in the EA, pages 33 and 38, respectively, for a detailed discussion of the effects this management direction will have on tribal access, traditional uses of the area, and cultural and historic resources.

## Preserving Natural Character

Many concerns were raised about how the Forest Service should preserve the natural character of the Apache Leap SMA and account for the area’s unique ecological characteristics, habitats, and scenery.

The Proposed Action includes plan components that are responsive to the concerns about the natural character and scenery of the Apache Leap SMA.

Statements describing the desired natural character and scenery conditions include:

- The landscape appears natural within the context of native vegetation and landforms and remains generally unaltered by human activity. Deviations from the natural landscape are limited and may include valued cultural landscape features and essential management elements that blend with the natural landscape.
- The Apache Leap SMA persists in a substantially natural condition to be used and enjoyed by the public, and the special characteristics for which it was designated are protected. Subsidence associated with any future mining adjacent to the area does not impair the special characteristics for which it was designated.

Management standards and guidelines for future site-specific projects will require that:

- Natural character and associated values, including natural quiet, dark skies, and limited encounters with other visitors, shall take precedence over recreation uses where conflicts occur.
- The Apache Leap SMA should be managed for the visual quality objective of “Retention” under the Visual Management System and a scenic integrity objective of “High” under the Scenery Management System.

See the “Natural Character and Scenery” section in the EA, page 28, for a detailed discussion of the effects this management direction will have on natural character.

## Access and Recreation

I heard numerous concerns about how the Forest Service should ensure access to the Apache Leap SMA for recreation and traditional uses in the future. Many commenters were concerned about the anticipated future closure of Forest Road 315 on the east side of the special management area (from adjacent proposed mining activities) and the pending administrative use designation of Forest Road 2440 on the west side.

These future actions would likely limit public access to the Apache Leap SMA. There were many concerns about the types of future recreation uses and activities that would be authorized in the special management area. The Town of Superior also expressed concerns about continued recreation access to the Apache Leap SMA.

The Proposed Action includes plan components that clarify the management intent for public access and recreation within the Apache Leap SMA.

Statements describing the desired conditions for public access and recreation include:

- Public access within the Apache Leap SMA is consistent with protection of scenic and cultural/historic values.
- Non-motorized trails are the primary source of public access for most of the area's rugged, remote landscapes.
- The Apache Leap SMA offers dispersed recreation opportunities that emphasize non-motorized recreation. Recreation activities occur at appropriate locations and intensities such that cultural and natural values are protected.
- Day-use recreation opportunities are offered within a predominantly undeveloped setting. Overnight camping does not occur. Recreation user conflicts are minimal.

I have included a management objective to establish a closure order and complete the associated National Environmental Policy Act (NEPA) documentation to exclude overnight camping under *Title 36 CFR Part 261*, "Prohibitions" within 3 years of approving the Apache Leap SMA management plan.

Management guidelines for future site-specific projects will require that:

- The Apache Leap SMA should be managed for recreational settings consistent with the Recreation Opportunity Spectrum classification of semi-primitive motorized and semi-primitive non-motorized.

The Proposed Action also includes these management approaches for public access and recreation:

- Develop a management approach with the goal of collaborating with consulting parties, stakeholders, and the public to ensure availability of future opportunities to access the Apache Leap SMA for dispersed recreation and traditional uses. Review travel management road designations to allow for motorized access to the Apache Leap SMA. Consider developing access "nodes" on the west and south sides of Apache Leap for future public access. These nodes would provide locations for non-motorized trail junctions and trailheads and could also be considered for parking areas if at a road terminus.
- As opportunities arise, consider ways to integrate and develop non-motorized trails within the Apache Leap SMA. Review trail proposals as they are received from non-governmental organizations, local governments, and citizen initiatives and work with all consulting parties, stakeholders, and the public to ensure any future trail development is consistent with the purposes for which the Apache Leap SMA was designated. Consider existing and proposed non-motorized trails that are adjacent (e.g., the LOST [Legends of Superior Trail]) for connectivity to future proposed trails within the Apache Leap SMA.
- Work with local non-governmental organizations, local governments, tribes, and recreation groups to establish sustainable rock climbing and bouldering expectations in the Apache Leap SMA. Develop an Apache Leap Special Management Area Climbing Management Plan in a manner consistent with the stated purposes of the Apache Leap SMA, as identified in the NDAA.

- Within the Climbing Management Plan, consider designating approaches to the escarpment from the west side, identifying existing and future climbing routes, and defining how climbing routes would be managed to minimize natural and cultural resource impacts.

See the “Access” and “Recreation” sections, pages 45 and 50, respectively, in the EA for a detailed discussion of the effects this management direction will have on access and recreation.

## Land Suitability Determinations

The Proposed Action also includes land suitability determinations. Within the plan area, I determined that livestock grazing, timber production, and mining activities (location, entry, and patent) are uses of the land that are incompatible with the desired conditions and primary purposes for which the Apache Leap SMA is to be managed:

- Livestock grazing is not a suitable use of the Apache Leap SMA because it is not compatible with many of the desired conditions put forth in the management plan. These desired conditions direct management of the special management area to enhance natural ecological processes on an undisturbed landscape where disturbance by human activity to the natural landscape is limited. See the “Desired Conditions” section of the management plan for the following resources: “Natural Character and Scenery” (Section 3.1.1), “Tribal” (Section 3.2.1), “Cultural/Historic” (Section 3.3.1), “Wildlife” (Section 3.7.1), and “Vegetation” (Section 3.8.1). See the “Livestock Grazing” section in the EA, page 67, for a more detailed discussion.
- The lands within the Apache Leap SMA are not suitable for timber production because the following factor from *36 CFR 219.11a* applies: *the land is not forest land*. The vegetation composition is a mix of the Sonoran Desertscrub and Interior Chaparral communities, which do not support commercial tree species.
- The Apache Leap SMA was withdrawn from future mining activity, pursuant to *PL 113–291, NDAA Section 3003, subsection (f)*; therefore, lands within the management area are not suitable for mining by law. See Section 3.11.1, “Suitable Uses Designated by Legislation,” for more information. These uses are not suitable and will no longer be authorized to occur within the Apache Leap SMA. See the “Mineral Resources” section in the EA, page 53, for a more detailed discussion.

## Proposed Resolution Copper Mine and Land Exchange

I heard many concerns about how the Forest Service should consider future impacts on the Apache Leap SMA from the proposed Resolution Copper Project and Land Exchange. There were questions about what resource monitoring activities would occur to protect the Apache Leap SMA. Concerns were also raised about how the Forest Service would manage existing mining-related permits and the NDAA-authorized activities in a manner consistent with the primary purposes of the Apache Leap SMA.

The Proposed Action includes plan components that are responsive to the concerns about protecting the resources and existing natural character of the Apache Leap SMA from future adjacent mining activities. For example, see the desired conditions listed above for preserving natural character.

The Proposed Action includes a plan component to guide the development of a seismic monitoring strategy acknowledging the likelihood that many aspects of Resolution Copper’s proposed “General Plan of Operations” would be approved in some form. The monitoring strategy would be developed to provide a means to monitor, estimate, and anticipate the effects of future proposed mining adjacent to the special management area in order to preserve the natural character, cultural, and historic resources of the Apache Leap SMA as much as practicable. The strategy will identify and explore solutions to remediate and mitigate surface conditions that could threaten the integrity of the Apache Leap SMA as allowed by pertinent laws and regulations.

The Proposed Action identifies as suitable uses the *NDAA Section 3003(g)(4)(B)* authorized activities related to public safety and monitoring concerns associated with the proposed adjacent mine. These include: the installation of seismic monitoring equipment; necessary measures for public safety (e.g., fences, signs, etc.); and the operation of an underground tunnel adjacent to the northern boundary of the Apache Leap SMA (approximately 3,400 feet below the ground).

Adjacent mining cannot be limited through management actions in the Apache Leap SMA. Congress specified in *Section 3003(g)(6) of the NDAA* that “the provisions of this subsection shall not impose additional restrictions on mining activities carried out by Resolution Copper adjacent to, or outside of, the Apache Leap area beyond those otherwise applicable to mining activities on privately owned land under Federal, State, and local laws, rules, and regulations.”

The extent of subsidence, as proposed in the Resolution Copper Project and Land Exchange “General Plan of Operations,” was also included as part of the projects, activities, and factors considered in the cumulative effects analysis of the EA. Adjacent mining operations are being analyzed appropriately through the NEPA process (Resolution Copper Project and Land Exchange Environmental Impact Statement) required under *Section 3003(c)(9) of the NDAA*. The notice of intent for the Resolution Copper Project and Land Exchange Environmental Impact Statement was released on March 18, 2016.

## Other Alternatives Considered

I considered selection of the No Action alternative. Under the No Action alternative, none of the management direction provided by the plan components (i.e., desired conditions, standards, guidelines, objectives, and land suitability determinations) developed for the Apache Leap SMA would be implemented. Under the No Action alternative, the Apache Leap SMA would be managed in accordance with the current prescriptions found in the forest plan. The Apache Leap SMA would not be managed with an emphasis that preserves the natural character of Apache Leap; allows for traditional uses of the area by Native American people; and protects and conserves the cultural and archeological resources of the area. The No Action alternative would not comply with *NDAA Section 3003(g)*, which directs the Forest Service to develop a management plan for the Apache Leap SMA.

Additional alternatives that I considered but eliminated from detailed analysis are described in the “Alternatives Considered but Eliminated from Detailed Analysis” section of the EA, page 23.

## Public Involvement

The public participation strategy for the Apache Leap SMA management plan<sup>2</sup> included meetings with representatives of the consulting parties, an interactive public planning workshop, a public scoping period and public meeting, and a plan amendment notice period, as well as media publications and a regularly updated website.

On October 7, 2016, a legal notice of intent to prepare a management plan was published in the paper of record for the Tonto National Forest, the *Arizona Capitol Times* (as well as other newspapers). Approximately 22,902 people on the project mailing list were invited by postcard or email to attend the October 20, 2016, public planning workshop. Workshop materials, including meeting posters, a meeting agenda, comment forms, and presentation slides, were posted to the project website at: <http://www.apacheleapsma.us/>. Approximately 40 people attended the public workshop, which included a formal presentation given by the Forest Service, followed by an interactive workshop session.

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<sup>2</sup> Details of the strategy are included in the EA as well as in the project record, in the document titled “Public Involvement Plan.Final Decision Notice



Comments collected at the workshop and submissions received between October 5, 2016, and November 21, 2016, were used to prepare the initial management plan.

On March 17, 2017, a legal notice requesting comments on the proposed Apache Leap SMA management plan and notice of public scoping for an EA was published in the paper of record for the Tonto National Forest, the *Arizona Capitol Times* (as well as other newspapers). Approximately 26,089 people on the project mailing list were notified by postcard or email, which announced the 45-day public scoping period. Scoping materials, including the proposed management plan, legal notice, and scoping meeting posters, newsletter, comment form, and presentation slides, were made available to the public on the project website.

Approximately 53 people attended the public scoping meeting in Superior, Arizona, on April 4, 2017. The meeting consisted of a Forest Service presentation on the proposed management plan components, followed by a public open house. During the open house, we answered questions and provided clarifications on the proposed plan content and forthcoming environmental review process. Formal public comments were collected as verbal comments taken by the court reporter at the public meeting or written comments submitted via mail or email or delivered to the Forest Supervisor in person. During the 45-day public scoping period (March 17, 2017, to May 1, 2017), a total of 72 comment submissions was received. Submittals were obtained from 61 individuals, five non-governmental organizations, two government entities, one tribe, and one business. We revised the proposed management plan based on scoping comments.

On June 30, 2017, a legal notice announcing the opportunity to comment on the proposed forest plan amendment for the Apache Leap SMA was published in the paper of record for the Tonto National Forest, the *Arizona Capitol Times* (as well as other newspapers). The revised management plan was released to the public for comment during this same comment period. Approximately 185 people on the project mailing list, including tribal, government, and those who commented during the scoping period, were notified by postcard or email, which announced the 30-day public comment period. Project materials, including the modified and proposed management plans, legal notice, and an overview of management plan changes, were made available to the public on the project website. During the 30-day comment period (July 1, 2017, to July 31, 2017), a total of 23 comment submissions was received.

## Tribal Consultations

I conducted government-to-government consultations with Native American Indian Tribes (Tribes) in accordance with the *National Historic Preservation Act of 1966* and with *Section 3003(c)(3) of the NDAA*. I initiated tribal consultations with a formal letter in the summer of 2016 inviting the Tribes to engage in government-to-government consultation. Eleven tribes received the tribal scoping letter: the San Carlos Apache Tribe, Tonto Apache Tribe, Mescalero Apache Tribe, White Mountain Apache Tribe, Yavapai-Apache Nation, Fort McDowell Yavapai Nation, Yavapai Prescott Indian Tribe, Gila River Indian Community, Salt River Pima-Maricopa Indian Community, Hopi Tribe, and Pueblo of Zuni.

Government-to-government consultation meetings were scheduled between November 2016 and May 2017 to accommodate the needs and preferences of individual tribes as well as their specific interests and concerns about the Apache Leap SMA. In April 2017, the Ak-Chin Indian Community provided comments and requested consultation meetings.

I hosted a meeting for all interested tribes in late April 2017; eight of the 12 tribes were represented at the meeting, which included a tour of the project area and discussion of affected resources, tribal concerns, and potential measures to avoid, minimize, or mitigate potential adverse effects.

## Finding of No Significant Impact

The “Finding of No Significant Impact” section of the Apache Leap SMA EA, page 72, documents the rationale for the finding of no significant impact on the quality of the human environment from selecting the Proposed Action. I made this determination considering the context and intensity of impacts (*40 CFR 1508.27*). As a result of this finding, no environmental impact statement will be prepared.

## Findings Required by Other Laws and Regulations

My decision to approve the Apache Leap SMA management plan is consistent with Forest Service planning regulations (*36 CFR 219*), as the decision includes an amendment to the forest plan to include the plan components developed for the Apache Leap SMA. Planned activities will contribute to forest plan goals and objectives, comply with existing forest plan standards, and be consistent with the direction provided in the new management area (MA 2G Globe Ranger District – Apache Leap SMA).

Implementation of this decision will not violate any federal, state, or local laws or requirements imposed for the protection of the environment, including, but not limited to:

- *National Forest Management Act of 1976*
- *Clean Air Act of 1963*, as amended
- *American Antiquities Act of 1906* and *National Historic Preservation Act of 1966*, as amended
- *Archaeological Resources Protection Act of 1979*
- Executive Memorandum of April 1994, Government-to-Government Relations with Native American Tribal Governments
- Executive Order 13112 of 1999 (Invasive Species)
- Executive Order 13007 of 1996, Indian Sacred Sites, and Executive Order 13175 of 2000, Consultation and Coordination with Indian Tribal Governments
- *The Organic Administration Act of 1897*

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## II. Amendment to the 1985 Tonto National Forest Plan

### Introduction

Under the *National Forest Management Act of 1976* and its implementing regulations at *36 CFR 219*, a forest plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for the change. I have the discretion to determine whether and how to amend the forest plan and to determine the scope and scale of any amendment (*36 CFR 219.13*).

### Amend Consistent with Forest Service NEPA Procedures (§ 219.13(b)(3))

The effects of the plan amendment are documented in the Apache Leap Special Management Area Management Plan Environmental Assessment and Finding of No Significant Impact (EA/FONSI) following Forest Service NEPA procedures at *36 CFR Part 220*.

Because the appropriate NEPA documentation for this amendment is an EA, it is not considered a significant change to the plan for purposes of the National Forest Management Act (*36 CFR 219.13(b)(3)*).

### How the 2012 Planning Rule Applies to the Plan Amendment

I prepared this forest plan amendment to the 1985 Tonto National Forest Land and Resource Management Plan (forest plan) under the 2012 Planning Rule regulations. The 2012 Planning Rule has different provisions from the 1982 Planning Rule procedures that the Forest Service used to develop the existing forest plan.

### Purpose of the Amendment (*36 CFR 219.13(b)(1)*)

The purpose of the amendment is to establish a new management area and to add plan components for the Apache Leap SMA. The plan amendment is based on the language set forth in *Section 3003 of the NDAA*, in which Congress directs the Secretary of Agriculture to develop a plan for the newly established Apache Leap SMA.

There are two related needs for the proposed action: to fulfill the requirements outlined in the *NDAA Section 3003(g)* to prepare a management plan for the Apache Leap SMA; and to meet the requirements at *36 CFR 219.13* for amending forest plans due to changed circumstances (i.e., the congressional designation of a new special management area).

### Compliance with the Rule's Procedural Provisions

As explained below, this amendment complies with the procedural provisions of the 2012 Planning Rule (*36 CFR Part 219.13(b)*).

### Using the best scientific information to inform the planning process (§ 219.3)

My decision is also based upon consideration of best available scientific information. I have reviewed the project record, which shows thorough review of relevant scientific information, consideration of responsible opposing views, and acknowledgement of incomplete or unavailable scientific information, scientific uncertainty, and risk.

## Providing opportunities for public participation (§ 219.4) and providing public notice (§ 219.16; § 219.13(b)(2))

We sought public input for preparation of the management plan at several stages during the planning and environmental review processes. Details about the public notices and opportunities for public participation are the same as those described above in Part I, under the public involvement section.

## Format for plan components (§ 219.13(b)(4); § 219.7(e))

The plan components developed for the Apache Leap SMA will guide future project and activity decision-making within the specific management area only. The Apache Leap SMA management plan includes plan components to guide management of the 10 key resources identified for the special management area.

Plan components were tailored to the specific needs of each of the 10 key resources in the special management area; as a result, not all of the plan components were developed for each resource. The following is a summary of the plan components as they are incorporated into the Apache Leap SMA management plan:

- *Desired conditions.* Desired conditions were developed for each of the resources in the management plan. A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed (36 CFR 219.7(e)(1)(i)). The desired conditions for each resource are those conditions that would achieve the purposes of the Apache Leap SMA as outlined in NDAA Section 3003(g).
- *Objectives.* Objectives were developed for two resource areas: recreation and livestock grazing. An objective is a concise, measurable, and time-specific statement of a desired rate of progress toward a desired condition or conditions (36 CFR 219.7(e)(1)(ii)).
- *Standards.* Standards were developed for six of the key resources. A standard is a mandatory constraint on project and activity decision-making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements (36 CFR 219.7(e)(1)(iii)).
- *Guidelines.* Guidelines were developed for nine of the key resources. A guideline is a constraint on project and activity decision-making that allows for departure from its terms, so long as the purpose of the guideline is met (36 CFR 219.7(e)(1)(iv)).
- *Suitability of lands.* The management plan contains suitability determinations for livestock grazing, timber production, and mining. Suitability of lands refers to the appropriateness of applying certain resource management practices to a particular area of land, in consideration of the relevant social, economic, and ecological factors. Specific lands within a plan area will be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands (36 CFR 219.11 and 219.7(e)(1)(v)).

In addition to the required plan components listed above, the Apache Leap SMA management plan uses “management approaches” to describe management intent and possible management strategies, and to identify potential partnership opportunities and coordination activities, including area or resource monitoring.

These plan components were added to guide management of the key resources found in the Apache Leap SMA. The Apache Leap SMA includes approximately 839 acres of land currently under federal and private ownership. Upon completion of the Southeast Arizona Land Exchange (NDAA Section 3003(g)),

the Apache Leap SMA will include only federal lands. These plan components apply to the federal lands within the Apache Leap SMA area.

### The plan amendment process (§ 219.13)

The need for this forest plan amendment was triggered by Congress in December 2014 when it established the Apache Leap SMA as part of the *Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015* (NDAA). *Section 3003(g)(5)(a) of the NDAA* directed the Forest Service to prepare a special management plan within 3 years for the Apache Leap SMA in consultation with affected Indian tribes, the Town of Superior, Resolution Copper, and interested members of the public.

The Forest Service announced its intentions to: (1) prepare and adopt a programmatic management plan for the approximately 839-acre Apache Leap SMA; and (2) amend the forest plan with a new management area and plan components for the Apache Leap SMA in the fall of 2016.

In March 2017, the Forest Service released for public comment a proposed management plan offering a comprehensive strategy for preserving the natural character of the Apache Leap SMA and its associated resources and values, pursuant to the terms set forth in the NDAA (*NDAA Section 3003(g)(1–6)*).

During the summer of 2017, an EA/FONSI was prepared to consider the effects of the Proposed Action and the No Action alternative.

This decision notice announces my decision to adopt a management plan for the Apache Leap SMA and to amend the forest plan.

### Effective date (§ 219.17(a)(2))

Because it does not involve the preparation of an environmental impact statement, this amendment to adopt plan components for the Apache Leap SMA is effective immediately.

## Documenting Compliance with the Rule’s Applicable Substantive Provisions

The planning rule requires that those substantive rule provisions within *36 CFR 219.8 through 219.11* that are directly related to the amendment are applicable to this amendment. The applicable substantive provisions apply only within the scope and scale of the amendment (*36 CFR 219.13(b)(5)*).

As explained in the discussion that follows, both the purpose and the effects of the amendment are such that provisions in §§ *219.8(a)(1)*, *219.8(a)(1)(v)*, *219.8(b)(5)*, *219.9(a)*, *219.10(a)(1)*, *219.10(a)(2)*, *219.10(a)(3)*, *219.10(a)(6)*, *219.10(a)(8)*, *219.10(b)(1)(i)*, *219.10(b)(1)(ii)*, *219.10(b)(1)(iii)*, *219.10(b)(1)(vi)*, and *219.11(a)(vi)* are directly related to the amendment. I have applied those provisions within the scope and scale of the amendment.

### Scope and scale of the amendment

The scope of the amendment is outlined below. The scale is applicable to the new management area, MA 2G Globe Ranger District – Apache Leap SMA (839 acres), within the Globe Ranger District, Tonto National Forest.



## Designated Area (Special Management Area)

As stated in the NDAA, the purposes of the special management area are to preserve the natural character of the Apache Leap, allow for traditional uses of the area by Native American people, and protect and conserve the cultural and archaeological resources of the area. As provided for in *36 CFR* § 219.10(b)(1)(vi), I have decided that the management of the Apache Leap SMA includes the following appropriate plan components:

### Natural Character and Scenery

I included desired conditions, standards, and guidelines for natural character and scenery in the scope of the amendment. Natural character and scenery plan components address aesthetic values and scenery (§ 219.10(a)(1)), utility corridors (§ 219.10(a)(3)), and scenic character (§ 219.10(b)(1)(i)).

### Tribal

I included desired conditions, standards, guidelines, and management approaches for tribal-related matters in the scope of the amendment. Tribal plan components address management of areas of tribal importance (§ 219.10(b)(1)(iii)).

### Cultural/Historic

I included desired conditions, standards, guidelines, and management approaches for cultural/historic resources in the scope of the amendment. Cultural/historic plan components address cultural and historic resources and uses (§ 219.10(a)(1) and § 219.8(b)(5)) and protection of cultural and historic resources (§ 219.10(b)(1)(ii)).

### Access

I included desired conditions, standards, guidelines, and management approaches for access in the scope of the amendment. Access plan components address use and access patterns relevant to the plan area (§ 219.10(a)(6)).

### Recreation

I included desired conditions, objectives, guidelines, and management approaches for recreation in the scope of the amendment. Recreation plan components address recreation settings and opportunities (§ 219.10(a)(1)) and sustainable recreation (§ 219.10(b)(1)(i)).

### Mineral Resources

I included desired conditions, standards, guidelines, and management approaches for mineral resources in the scope of the amendment. New plan components address geologic features (§ 219.10(a)(1)) and authorized uses of mineral resources (§ 219.10(a)(2)).

### Wildlife

I included desired conditions, guidelines, and management approaches for wildlife in the scope of the amendment. Wildlife plan components address ecosystem integrity and diversity (§ 219.9(a)), fish and wildlife species and their habitat and habitat connectivity (§ 219.10(a)(1)), and wildlife system drivers and their ability to adapt to change (§ 219.10(a)(8)).

## Vegetation

I included desired conditions and management approaches for vegetation resources in the scope of the amendment. Vegetation plan components address ecosystem integrity (§ 219.8(a)(1)), vegetation (§ 219.10(a)(1)), and system drivers such as natural succession, wildland fire, invasive species, and climate change (§ 219.10(a)(8)).

## Livestock Grazing

I included desired conditions, objectives, standards, guidelines, and management approaches for livestock grazing in the scope of the amendment. Livestock grazing plan components address grazing and rangelands (§ 219.10(a)(1)).

## Wildland Fire

I included desired conditions, guidelines, and management approaches for wildland fire in the scope of the amendment. Wildland fire plan components address the potential risk of wildfire to resources and multiple uses of the area (§ 219.10(a)(1)) and identify opportunities to restore fire adapted ecosystems (§ 219.8(a)(1)(v)).

## Suitability of Lands

I included suitability determinations for some multiple uses (§ 219.10(a)(1), § 219.10(a)(2), and § 219.11(a)(vi)) in the scope of the amendment. Livestock grazing is not a suitable use of the Apache Leap SMA because it is not compatible with the desired conditions for natural character and scenery, tribal resource interests, cultural and historic resources, wildlife, and vegetation. The Apache Leap SMA was withdrawn from future mining activity, pursuant to *PL 113–291, NDAA Section 3003, subsection (f)*; therefore, lands within the management area are not suitable for mining by law. The Apache Leap SMA is not suitable for timber production because the land is not forestland.

## Rule provisions that are directly related to the amendment

The rule requires that substantive rule provisions (§ 219.8 through 219.11) that are directly related to the amendment must be applied to the amendment. A determination that a rule provision is directly related to the amendment is based on any one or more of the following criteria:

1. The purpose of the amendment (§ 219.13(b)(5)(i));
2. Beneficial effects of the amendment (§ 219.13(b)(5)(i));
3. Substantial adverse effects associated with a rule requirement (§ 219.13(b)(5)(ii)(A)); when an EA or categorical exclusion is the NEPA documentation for the amendment, there is a rebuttable presumption that there is no substantial adverse effect, and thus no direct relationship between the rule and the amendment based on adverse effects (§ 219.13(b)(5)(ii)(B)).
4. Substantial lessening of protections for a specific resource or use (§ 219.13(b)(5)(ii)(A)).
5. Substantial impacts to a species or substantially lessening protections for a species (36 *CFR* 219.13(b)(6)).

Applying these criteria, I have made the following determination:

The purpose of the amendment is to establish a new management area in the Globe Ranger District of the Tonto National Forest and to add new plan components for the Apache Leap SMA. Because of this purpose, directly related provisions of the rule are therefore sustainability (§ 219.8), diversity of plant and animal communities (§ 219.9), multiple use (§ 219.10), and timber requirements (§ 219.11).

Because the amendment scope focuses on only 10 resources and resource uses, the directly related rule provisions are applied only for those resources and resource uses. Because the amendment scale focuses on the entire plan area, the directly related rule provisions are applied to the entire plan area.

Applying the rule requirements to this amendment, I find that this amendment would meet those requirements, and therefore no adjustment to the amendment is necessary.

### Project and activity consistency with the plan

All future projects and activities must be consistent with the amended forest plan. The 2012 Planning Rule consistency provisions at *36 CFR 219.15(d)* apply only to the plan component(s) added or modified under the 2012 Planning Rule. With respect to determinations of project consistency with other forest plan provisions, the Forest Service's prior interpretation of consistency (that the consistency requirement applies only to plan standards and guidelines) applies (FSH 1909.12, Chapter 20, Section 21.33).

## III. Pre-decisional Administrative Review

This decision was subject to pre-decisional objection pursuant to *36 CFR 219, Subpart B*. The final EA/FONSI and a draft Decision Notice were completed and released on August 25, 2017, which initiated a 45-day objection period. The objection period ended October 10, 2017. Seven objection letters were received, and five were found to be eligible. The Reviewing Officer (i.e., the Regional Forester for the USDA Forest Service Southwestern Region) considered each of the contentions submitted by the five eligible objectors. Objection resolution meetings took place on December 6 and 7, 2017. Final instructions from the reviewing official were issued between December 18 and December 22, 2017.

The Reviewing Officer found that the project is in compliance with all applicable laws and the Tonto National Forest Land and Resource Management Plan (forest plan); and that there are no changes to the project identified in the objection review that affect the analysis and conclusions in the Final EA.

However, in response to specific contentions raised during the objection period, the Reviewing Officer instructed me to adjust the language in a few sections of the Apache Leap SMA management plan and to prepare an errata report for the EA (identifying minor corrections and clarifications) resulting from those plan language adjustments.

Specific instructions to the Apache Leap SMA management plan are as follows:

1. In Section 3.5 Recreation, clarify language in the Management Approaches (Section 3.5.4) related to climbing routes and bolting. The management approach now states:

“Work with local non-governmental organizations, local governments, tribes, and recreation groups to establish sustainable rock climbing and bouldering expectations in the Apache Leap SMA. Develop an Apache Leap Special Management Area Climbing Management Plan in a manner consistent with the stated purposes of the Apache Leap SMA, as identified in the NDAA. Within the Climbing Management Plan, consider designating approaches to the escarpment from the west side, designating climbing routes, and prohibiting new bolting on select climbing routes to minimize environmental impacts, identifying existing and future climbing routes, and defining how climbing routes would be managed to minimize natural and cultural resource impacts.”

2. In Section 3.2 Tribal, delete the word “consider” in the Management Approaches (Section 3.2.4) that discuss “working with tribes” and “developing a strategy”.
3. In Section 3.1 Natural Character and Scenery, clarify language regarding the timing and intent of the seismic monitoring program and move points defining the program from the Management Approaches section to the Guidelines section (from Section 3.1.4 to Section 3.1.3). A sixth guideline has been added with this wording:

*"To meet the desired conditions for natural character, a data collection strategy should occur to monitor, estimate, and anticipate the effects of future proposed mining activities adjacent to the special management area.*

- *To provide an adequate period to collect baseline information, implementation of the strategy should occur as soon as practicable, and before the commencement of any mine-related activities that may be authorized under Resolution Copper's proposed "General Plan of Operations" and related documents.*
- *The strategy, at a minimum, should include these design criteria: seismic monitoring equipment on the surface and subsurface, surface monuments (e.g., wooden or concrete post) that would be surveyed for movement, monitoring locations for collecting rock mechanics data, and a baseline survey using state-of-the-art methods, such as LiDAR, to establish pre-mine conditions against which future surveys could be compared.*
- *The strategy should specify what, where and how data is to be collected and the frequency for evaluating and reporting results.*
- *The strategy should identify and explore solutions to remediate and mitigate surface conditions that could threaten the integrity of the Apache Leap SMA as allowed by pertinent laws and regulations."*

The Reviewing Officer has responded to all objections (including those set aside from review) in writing. As the Responsible Official, I have taken all actions stipulated in the Reviewing Officer's response to the objections. With my signature, the Apache Leap SMA management plan and forest plan amendment become effective immediately.

For additional information about this decision or the Apache Leap SMA management plan, please contact Mary Rasmussen of my staff at (602) 225-5246 or email: [mcrasmussen@fs.fed.us](mailto:mcrasmussen@fs.fed.us).

Approved by:



NEIL BOSWORTH  
Forest Supervisor Tonto  
National Forest

12/26/17  
Date

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