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Sent to:
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Appeal Deciding Officer
Regional Forester
1323 Club Drive
Vallejo, CA 94592

**cc: Ara Marderosian
Michael Connor
Georgette Theotig
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Subject: Rancheria Project Administrative Appeal by Sequoia ForestKeeper, Kern-Kaweah Chapter of the Sierra Club & Western Watersheds Project

Sequoia ForestKeeper (SFK), the Kern-Kaweah Chapter of the Sierra Club (SC), and Western Watersheds Project (WWP) submit this administrative appeal in accordance with the requirements of 36 C.F.R. § 215 and the content requirements of 36 C.F.R. § 215.14. This is an appeal of the decision by Kevin Elliott, Forest Supervisor of the Sequoia National Forest, to proceed with the “**Rancheria Forest Restoration Project**” (or “Rancheria Project”), signed on July 5, 2013. SFK, SC, and WWP request that the Regional Forester halt implementation of the project and remand the decision to the Forest Supervisor to demonstrate compliance with the National Environmental Policy Act (NEPA), Regional Guidance, and other concerns raised in our appeal points below. Appellants’ requested relief is included in each appeal point.

Appellants previously submitted comments on June 15, 2011 (scoping comments) and May 23, 2013 (30-day comments), which we thought was a second scoping period because no draft or preliminary Environmental Assessment (EA) was provided with the second comment period. We were then surprised when Forest Supervisor Kevin Elliott issued his July 5, 2013 Decision Notice without allowing additional comments on the preliminary NEPA analysis. We are concerned about the direct, indirect, and cumulative effects from this project and other projects in the Southern Sierra Fisher Conservation Area on the Pacific Fisher and its habitat and how the Sequoia NF analyzed the effects of each alternative. We were concerned about the Forest Service’s treatment of the proposed alternative we preferred (non-commercial), felling and removing of hazard trees, and various other issues that we expected would be presented in a full analysis in a draft or preliminary EA. But we are precluded from doing so because the Forest Service has not put out the draft or preliminary EA for comment. We now appeal this decision and ask for a reversal of the decision and a remand under NEPA and because of the other concerns we state below.

Appeal Issues

1. The Sequoia NF Failed to Provide a Comment Period With Sufficient Information Similar to a Draft or Preliminary Environmental Assessment in Violation of NEPA’s Requirement of Involving the Public “to the extent practicable.”

After the Forest Supervisor issued his decision, René Voss sent a brief message on July 9, 2013 to ID Team Leader Penelope Shibley, asking for clarification about the comment period for Rancheria:

I just realized in looking at my files that there was no Preliminary EA provided for the 30-day comment period. This is unusual and very different from past processes. Could you please explain why? The previous comment period in April-May did not provide sufficient information or any preliminary environmental analysis to provide meaningful comments.

July 9, 2013 E-mail Message to Penelope Shibley from René Voss. In response, Forest Supervisor Kevin Elliott sent a response in which he made the following assertion:

In your e-mail, dated July 9, you asked why we did not provide a Preliminary EA for the Rancheria Forest Restoration Project. We are not required to publish a preliminary or draft environmental assessment.

We are required to conduct a 30-day comment period on the proposed project under 36CFR215.6(a). The legal notice of proposed action and opportunity to comment was published in accordance with 36 CFR Section 215.5 on April 23, 2013.

July 12, 2013 Letter from Kevin Elliott to René Voss (attached as Exhibit A).

But unlike the Appeals Reform Act regulations (36 C.F.R. § 215 *et seq.*), NEPA and its implementing regulations require more:

Regulations promulgated by the Council on Environmental Quality provide factors that agencies must consider in deciding whether to prepare an EIS and emphasize the importance of involving the public in NEPA evaluations. 40 C.F.R. §§ 1500.2, 1502.4(b). The public must be given an opportunity to comment on draft EAs and EISes, and public hearings are encouraged to facilitate input on the evaluation of proposed actions. *See* 40 C.F.R §§ 1503.1, 1506.6.” *Anderson v. Evans*, 350 F.3d 815, 831 (9th Cir. 2002).

Citizens for Better Forestry v. USDA, 341 F.3d 961, 970-71 (9th Cir. 2003) (“*CBF*”) (emphasis added).

The Eastern District of California applied the 9th Circuit’s *CBF* holding to procedural circumstances that are nearly identical those in the Rancheria Project when it set aside the decision for the North 49 Project on the Lassen NF. *See Sierra Nevada Forest Protection Campaign v. Weingardt*, 376 F. Supp. 2d 984 (E.D. Cal 2005) (“*SNFPC*,” attached as Exhibit B). In North 49, there were 2 comment periods, but the Forest Service did not provide a draft or preliminary EA during the 2nd comment period. *See id.*, PDF Page 7. The Court explained the procedural facts and the involvement of several organizations during the comment periods:

[The] organizations received a March 16, 2004 mailing from the Forest Service, which stated that the North 49 project was under consideration, generally described the project, and invited “input” on the proposed action. [] The thirteen-page document accompanying the letter, referred to as a “scoping notice,” included a description of the proposed action and approximately two and one-half pages of discussion of anticipated mitigation measures that would reduce impacts to wildlife, cultural resources, and watersheds. [The groups] submitted timely comments in response to this mailing suggesting certain topics that should be covered by any environmental review of the project and requesting a copy of any draft EA or environmental impact statement (“EIS”). []

[T]he Forest Service sent another letter to plaintiffs stating that it was initiating a second public comment period as required by 36 C.F.R. § 215.6. [] After the close of [2nd] public comment, the Forest Service prepared a series of internal reports, totaling more than three hundred pages, that evaluated the potential impacts of the proposed North 49 project, including impacts on silvicultural resources, wildlife, hydrology, sensitive plants, aquatic species, and visual resources. (*Id.* 95-413.) From these reports, the Forest Service prepared a fifty-page EA discussing the impacts of the project, including the cumulative impacts, as well as alternatives to the project in light of the information in the reports.

The EA was released to the public on August 20, 2004. [] At the same time, the Forest Service issued a “Finding of No Significant Impact” (“FONSI”) under NEPA and a Decision Notice approving the project.

Id. The facts in *Rancheria* are procedurally identical to those in *North 49*, except that Appellants here filed comments during the second comment period, whereas Appellants to the *North 49 Project* did not. Just as in *North 49*, after the 2nd *Rancheria* public comment period, the Forest Service issued a series of internal reports including impacts on various resources in the project area.¹ From these reports, many of which were already written but were not provided to the public during the 2nd comment period, the Forest Service prepared its EA. On July 5, 2013, the Forest Service issued its final EA, FONSI, and Decision Notice to the public, approving the project.

With respect to the *North 49 Project*, the *SNFPC* Court explained:

The CEQ Regulations are mandatory, not hortatory. *CBF*, 341 F.3d at 970. They require that an agency give environmental information to the public and then

¹ See Exhibit C – July 9, 2013 Shibley e-mail to René Voss providing the following hyperlink to additional *Rancheria* Specialist Reports:
http://www.fs.usda.gov/wps/portal/fsinternet/%21ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDfxMDT8MwRydLA1cj72BTUwMTAwgAykeaxRtBeY4WBv4eHmF-YT4GMHkidBvgAI6EdIeDXIvfdRAJuM3388jPTdUvyA2NMMgyUQQAyrgQmg%21%21/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfS000MjZOMDcxT1RVODBJN0o2MTJQRDMwODQ%21/?project=33846.

provide an opportunity for informed comments to the agency. *See* 40 C.F.R. §§ 1501.4, 1506.6. This process of disclosing information to the public must occur before the agency has reached its final decision on whether to go forward with the project. *Id.* § 1500.1(b).

* * *

The court finds that although the CEQ regulations do not require circulation of a draft EA, they do require that the public be given as much environmental information as is practicable, prior to completion of the EA, so that the public has a sufficient basis to address those subject areas that the agency must consider in preparing the EA. Depending on the circumstances, the agency could provide adequate information through public meetings or by a reasonably thorough scoping notice. The way in which the information is provided is less important than that a sufficient amount of environmental information – as much as practicable – be provided so that a member of the public can weigh in on the significant decisions that the agency will make in preparing the EA. Of course, to be on the safe side, the agency can never go wrong by releasing a draft EA, and supporting documents, as was the practice until recently. *See* 36 C.F.R. § 215.5(b)(2)(i) (1994).

* * *

... [W]hat seems fairly drawn from the case law and the CEQ regulations is that the agency must offer significant pre-decisional opportunities for informed public involvement in the environmental review process by releasing sufficient environmental information about the various topics that the agency must address in the EA, such as cumulative impacts, before the EA is finalized.

* * *

For the North 49 project, the thirteen-page project description available at the scoping stage, with its meager environmental analysis, was not the functional equivalent of a draft EA or the three-hundred and fifty pages of environmental documentation ultimately prepared by the Forest Service. While the “purpose and need” section of the EA was virtually identical to the information in the scoping notice, the scoping notice lacked other critical elements included in the EA. [] The scoping notice provided no environmental data concerning impacts to wildlife, cultural resources, watersheds, soils, fisheries, and aquatics. [] These environmental impacts were only explored in the nine expert reports and 28 pages of analysis in the EA. [] Moreover, the scoping notice contained no discussion or analysis of potential cumulative impacts, while the EA contained eight pages of discussion on this required topic. For these reasons, the scoping notice did not give the public adequate information to effectively participate in the decision-making process leading up to the final decision.

Id. at 990-92 (emphasis added).

The Rancheria Project documents released to the public during both comment periods similarly failed to provide any environmental analysis that was anywhere near what was needed to seek informed public comment. Both the 13-page “Proposed Action Document” provided during the scoping period and the 21-page “Proposed Rancheria Forest Restoration Project” document

provided during the 2nd comment period were not the functional equivalent of a draft EA or the hundreds of pages in the Specialist Reports provided with the 92-page EA on the web site only after the Forest Supervisor issued his decision. The document provided during scoping and the 2nd comment period contains *no* analysis of the potential environmental effects or cumulative impacts, while the EA contains about 23 pages of environmental consequences and hundreds of pages of effects analysis in the Specialist Reports. Just like the in the North 49 Project, many of the Rancheria Specialist Reports were already completed and in the hands of the agency during the 2nd comment period but were not released to the public at that time. *See* Rancheria Project Web Site (click link in footnote)² (providing report dates prior to the comment period for the Forest Health Protection Report, the Botany BE and BA, the Hydrology Report, the Soils Analysis, and the Scenery Report, with the remainder issued by June or early July, only a few weeks after the close of the 2nd comment period).

The *SNFPC* Court concluded:

[F]ailure to provide essential information, already in the hands of the agency, does not comply with the agency’s requirement of involving the public “to the extent practicable.” 40 C.F.R. § 1501.4. The agency’s failure to provide for effective pre-decisional public involvement in preparation of the EAs for the North 49, Eagle Ranch, Powder, and Edson projects is “contrary to law” under the APA.

Id. at 993.

Here, the Appeal Reviewing and Deciding Officers should similarly conclude that the Sequoia NF did not comply with NEPA’s requirement of involving the public to the extent practicable because it failed to provide effective pre-decisional public input in preparing the EA for the Rancheria Project. We urge you to reverse the decision and remand the project to the forest to provide the public an effective comment period on the EA, in accordance with the holding in *SNFPC*.

2. Failure to Consider Impacts to Sensitive Plant Species

In our 2nd set of comments (page 4), we asked the Sequoia NF to consider effects on *Eriastrum tracyi*, Tracy’s *Eriastrum*. The Forest ignored this request. In the EA at p. 49, they responded:

Concerns over five plant species listed as rare by CNPS, but not on the Sequoia NF sensitive plant list, were brought up in scoping by the public. This included pine fritillary, (*Fritillaria pinetorum*); Tracy’s *eriastrum*, (*Eriastrum tracyi*); pine gilia, (*Gilia leptantha*/ ssp */pinetorum*); transverse range phacelia (*Phacelia*

² See

http://www.fs.usda.gov/wps/portal/fsinternet/%21ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDfxMDT8MwRydLA1cj72BTUwMTAwwAykeaxRtBeY4WBv4eHmF-YT4GMHkidBvgAI6EdleDXIvfdRAJuM3388jPTdUvyA2NMMgyUQQAyrgQmg%21%21/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfS000MjZOMDcxT1RVODBJN0o2MTJQRDMwODQ%21/?project=33846.

exilis/); and oak-leaf nemophila, (*Nemophila parviflora*/ var. */quercifolia/*). They were evaluated for inclusion in the Forest Service sensitive and watch plant list during a revision in 2012. Four of these species are considered by CNPS to be “Not very endangered in California” (pine fritillary, pine gilia, transverse range phacelia and oak-leaf nemophila) so they were not added to either Forest list. Tracy’s eriastrum has taxonomic questions and needs review from outside specialists (such as CNPS) prior to being considered a sensitive species.

Despite our expressed concern over this plant, the Sequoia NF dismissed further consideration of it because of unspecified taxonomic issues without explaining how this related to its status or conservation. Nor was there any further explanation provided in the botany specialist report.

The Decision Notice for this project was signed July 5, 2013. By that time, Region 5 had added */Eriastrum tracyi/*, Tracy’s Eriastrum to the Sensitive species list. See attached Exhibit D—R-5 Sensitive Plant List dated July 3, 2013.

The California Natural Diversity Database (CNDDDB) also includes a record for *Delphinium purpusii*, the rose-flowered larkspur (see Exhibit E – CNDDDB occurrence 28 for this species attached). This plant was also added to the Region 5 Sensitive Species list on July 3, 2013. See Exhibit D at 5. Sequoia National Forest is the only National Forest that is known to harbor this species. There is no mention at all of this rare *Delphinium* in either the EA or the botany specialist report.

The Appeal Reviewing and Deciding Officers should therefore overturn the decision and issue a remand to the Sequoia NF to fully analyze the effects from the project on Tracy’s eriastrum eriastrum and the rose-flowered larkspur.

3. Failure to Adequately Disclose Cumulative Effects to the Pacific Fisher

The Wildlife BE at p. 39 states:

The cumulative effects discussion is bounded by the affected watersheds (7th order HUC) unless there is rationale to support a conclusion that effects of this project would contribute to a decline or cumulative effect that extends beyond those boundaries. This cumulative effects analysis is supplemented by the added cumulative effects in the Rancheria Project supplemental biological evaluation for fisher (Lang 2013) and the Revised Ice Supplemental Biological Evaluation for Fisher (Lang 2010). Both of these documents take a harder look at cumulative effects specifically in regard to fisher at multiple scales up to and including the entire southern Sierra Fisher conservation area (or the entire range of fisher in the southern Sierra Nevada).

Unfortunately, there was no “Rancheria Project supplemental biological evaluation for the fisher (Lang 2013)” provided with the project file on the Rancheria Project Web Site (click link in

footnote).³ Therefore it is not possible for the public to determine whether the cumulative effects analysis for Pacific fisher is adequate. Had the Forest Service provided this analysis with a draft EA, we could have asked for a clarification or a supplementation of the project record on the website. But there is nothing there now, and the decision should therefore be reversed and remanded to allow informed comment on the BE supplement.

4. Failure to Provide Adequate Habitat Elements for the Conservation and Recovery of the Pacific Fisher

The Pacific fisher was placed on the candidate list for Endangered Species Act (ESA) protection in 2004, although the U.S. Fish and Wildlife Service (FWS) has delayed listing. But more recently, under an agreement with the Center for Biological Diversity, the FWS has agreed that it will propose the Pacific fisher for protection (or determine it does not qualify) in 2014 and finalize the decision in 2015. Given its low population levels and various threats from habitat destruction, vehicle collisions, and rodenticide poisoning, it is more likely than not that the FWS will actually provide the Pacific fisher the full protection it needs under the ESA.

Given this scenario and the fact that the Rancheria Project will not be fully implemented by the time the listing decision takes place, the Forest Service must plan for the listing decision and not degrade the fisher's habitat to avoid a taking. Therefore, the conservation and recovery of Pacific fisher must be a part of the Rancheria Project's design. The project's design and the analysis in the EA and BE show that the Rancheria Project does not meet the test for adequately of protecting fisher habitat to ensure conservation and recovery of the species under the ESA.

For example, the project's design fails to ensure sufficient snags and down logs in the project area. Snags and downed logs are some of the most important habitat elements for Pacific fishers. Zielinski et al. (2006 [Table 2]) found that fishers selected sites with 15.4 large snags (over 38.1 cm in diameter, or over 15 inches in diameter) on average per 0.5 hectares, or about 12.5 large snags per acre, within Sierra and Sequoia National Forests, including within the Giant Sequoia National Monument. Using the U.S. Forest Service's own Forest Inventory and Analysis (FIA) fixed plots to determine the average snag density across the forested landscape within the fisher's range in Sequoia and Sierra National Forests, Zielinski et al. (2006) found that there were only about 8.7 large snags per acre on average—well below the level selected by fishers. The project analysis shows that the project area is in a snag deficit compared to these habitat requirements.

And Alternative 2 includes heavy thinning, including canopy thinning, which would severely reduce or even eliminate snag recruitment and therefore reduce the very habitat elements that fishers need over the long term.

³ See

http://www.fs.usda.gov/wps/portal/fsinternet/%21ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDfxMDT8MwRydLA1cj72BTUwMTAwwgAykeaxRtBeY4WBv4eHmF-YT4GMHkidBvgAI6EdleDXIvdrAJuM3388jPTdUvyA2NMMgyUQQAyrgQmg%21%21/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfS000MjZOMDcxT1RVODBJN0o2MTJQRDMwODQ%21/?project=33846.

Moreover, Zielinski et al. (2006) found that fishers selected sites with 65 large downed logs (over 25.4 cm in diameter) per hectare, or about 26 logs over 10 inches in diameter per acre. Using the U.S. Forest Service's own Forest Inventory and Analysis (FIA) fixed plots to determine the average large downed log density across the forested landscape within the fisher's range in Sequoia and Sierra National Forests, Zielinski et al. (2006) found that there were only about 19 large downed logs per acre on average within the fisher's range—well below the level selected by fishers. Zielinski et al. (2006) also found that fishers selected sites with 169 cubic meters of large down logs per hectare (2,427 cubic feet per acre), relative to only 118 cubic meters per hectare at FIA plots in general (1,690 cubic feet per acre). Again, the project analysis shows that the project area is in a deficit of large down logs compared to these habitat needs.

Project design could have provided sufficient large down logs by leaving felled trees in the thinning units or by leaving felled hazard trees. But Alternative 2 would remove trees up to 30 inches in diameter (and larger hazard trees) and the Forest Service has missed an opportunity to provide the very habitat elements that fishers need over the long term.

Although Alternative 3 does not provide all that the Pacific fisher needs to assure its conservation and recovery, it would preserve options by retaining many of the necessary habitat elements in the form of larger trees that won't be removed when the eventual listing of the Pacific fisher takes place. Instead, the implementation of Alternative 2 would substantially degrade the habitat of the fisher before it can receive the protection needed under the ESA.

5. Failure to Use and Apply the 2012 Regional Hazard Tree Guidelines

In response to SFK, SC, and WWP's request to use and apply the newer 2012 Regional Hazard Tree Guidance, which the Sequoia NF uses in Hume Lake RD of the Sequoia NF, the Forest Service stated only that

The Rancheria project is designed using the SQF guidelines prior to availability of the R5 standards. Both standards are similar.

EA, Appendix A, p. 77. The design of the project using the SQF guidelines over the R5 standards makes little difference if the identification of hazard trees using those standards has not yet occurred or is ongoing. But the 2012 R5 standards are much more accountable and provide a better and more rigorous application of the hazard rating system in a forest where we have little trust that the Forest Service is adequately applying its own SQF hazard guideline appropriately and where more trees than necessary have been logged in the past using those outdated guidelines. Rather than apply an old system piecemeal to only parts of the forest when an updated and more accountable system now exists that can be consistently applied across the region, the Region should insist that the Sequoia NF use the 2012 R5 standards in the Rancheria Project on remand. In addition, the EA provides no reasonable basis for using the old SQF guidelines if the forest has not yet identified individual hazards in the project area.

6. Failure to Consider Effects of Livestock Grazing

In our scoping comments, we asked the Sequoia NF to consider the cumulative effects of livestock grazing and the project:

The treatment area is within Wagy Flat, Little Poso, Lumreau, and Cedar Creek Allotments. There is no mention of these allotments in the project description. The Forest Service must explain how the treatment areas will be affected by the combination of thinning and grazing, how it will be rested from grazing to facilitate restoration, and explain the cumulative effects of cows and treatments on invasive weeds and sensitive resources etc.

The EA mentions the four allotments (in the body of the text on page 55 and in the response to comments on page 79). Actual analysis is restricted to these three sentences on page 35:

Cattle grazing is allowed in the project area by permit. Underburning the units after other treatments should create an increase in annual grass and forbs. This will improve animal distribution and help to avoid livestock concentration (Range Report, 2013). No cumulative effects are expected since grazing is only permitted when range vegetation conditions are suitable.

EA at 35. But one of the components of the Proposed Action is to restore native species composition by planting pine species and enhancing growing conditions for existing pine and oaks. EA at 20-21. Neither the EA nor the Range Report address the issue of resting these restoration areas from livestock grazing. The documents are silent on how long the burn areas will be rested prior to allowing resumption of grazing. Nor do the documents explain for how long and by what means cattle will be kept out of the areas where sugar pine seedlings and other trees will be planted. Even if the planted seedling trees are not palatable they are highly susceptible to trampling by cattle which could lead to failure of the plantings. Forest Service policy is to control livestock grazing to achieve successful reforestation. And to not permit livestock on a reforestation area until seedlings are capable of withstanding the type of grazing use intended. FSM 2472.33.

7. The Choice of Alternative 2 over Alternative 3 is Not Adequately Supported by a Reasoned Analysis

Alternative 3 is the only alternative that is responsive to the various issues raised during the first round of scoping. Because Alternative 2, the proposed action, does not adequately respond to those issues, it should not have been selected.

More specifically, Alternative 2 will substantially reduce and therefore not maintain canopy cover for Pacific fisher in stands proposed for mechanical thinning; it will remove trees up to 30 inches in diameter, which are important habitat components for Pacific fishers, California spotted owls, and northern goshawks; it will result in compacted soils in areas treated with mechanical equipment; and it will reduce the potential for snag recruitment and large down logs in heavily-thinned stands, which are important habitat components for Pacific fishers and California spotted owls.

The Decision Notice and the EA both state that under Alternative 3 forest health objectives would not be entirely met under this alternative, due to the low intensity thinning, as well as under Alternative 2. DN at Page 8 of 15; EA at p. 32. The Decision Notice never really explains what it means by a “healthy forest” and why reducing density that also adversely affects species like spotted owls, Pacific fishers, marten, and goshawks is good for the forest. Both alternatives treat plantations and provide heterogeneity, whereas Alternative 2 also substantially reduces densities thereby reducing competition (and potentially native insects and disease, meaning reducing natural ecological process), thereby reducing future snag recruitment. Future snags are another necessary component for these species in the long run. Based on these ecological principles, the forest will be less healthy if Alternative 2 is implemented, which favors the selection of Alternative 3. The Decision Notice and EA provide no rational basis for the decision to select Alternative 2 over 3. Providing timber for the mill is not one of the purposes and needs of the project, but it seems to be the only reason for favoring Alternative 2 over the non-commercial alternative 3.

8. Failure to Follow the Consensus Recommendations from the Sawmill Forum on Prioritizing Protection and Restoration of Pacific Fisher Habitat

In 2010, the Forest Service brought together scientists and community leaders to discuss actions that the Forest Service should take in the Rancheria Project area (then called the Sawmill Project area). The meetings resulted in much consensus and some disagreement as to what is needed to be done. Much of this is described in the Sawmill Forum meeting notes, which were included in Exhibit C of our first round of scoping comments.

During discussions at the forum, there was consensus on a number of issues that change the normal direction of what the Forest Service does in these types of projects. Key outcomes, included:

- Co-equal objectives of habitat and community fire protection.
- Re-introducing fire, including pockets of high intensity fire, is beneficial for the ecosystem and resiliency and should be pursued in the project
- Preserve or enhance existing and create future fisher habitat (leave or recruit snags, oak woodlands, downed logs, canopy cover)

SFK & the Club’s First Round Scoping Comments, Exhibit C – Forum Agreements, PDF p. 1 and Meeting Notes from May 18, 2010, p. 1 – Key Outcomes (PDF, p. 13).

Although the first two points were incorporated in the “Purpose and Need” for the project, the proposal and final analysis made Pacific fisher habitat protection or restoration subservient to fuel reduction treatments. This is an unacceptable departure from the consensus reached at the collaborative meeting. Given the direction the Sequoia NF has taken, which abandoned the consensus because it apparently would not achieve the results the Forest Service desired, it is unlikely that any such future collaborative can or will be supported by us or any of the other participants.

We have urged the Forest Service to elevate Pacific fisher habitat protection and restoration as a priority by including the third point (above) as a specific “Purpose and Need” for the Rancheria Project to “Preserve or enhance existing and create future fisher habitat” In its response to comments in Appendix A of the EA the Forest Service states:

That collaborative effort was the basis for much of the Rancheria Project design. The proposed action and design criteria address ecological restoration as well as community fire protection for this project (purpose and need, EA p. 25). One of the purposes of the project is to “Restore a structure and function that generally resemble pre-settlement conditions.” (EA, p.8). This includes old forest conditions, frequent mixed intensity fire, improved resilience and habitat for old-forest dependent species. Other project features have been incorporated to improve fisher habitat such as enhancing oak woodland, and preserve down logs and snags, as well as canopy cover .(EA p 18-19, table 4, p. 30)

Just including a few features in the project to improve fisher habitat is not the same as elevating Pacific fisher conservation as a co-equal element in the purpose and need. Had this been a co-equal purpose and need, then the heavy thinning alternative that degrades fisher habitat by substantially reducing canopy cover could not have been supported by the Forest Service. Essentially, the elimination of Pacific fisher conservation as a co-equal purpose of the project has provided the main reason for not selecting Alternative 3, which would have done much more to protect and conserve fisher, spotted owls, marten, and goshawks, while also achieving the other purposes of the project.

The Pacific fisher will likely be listed as endangered or threatened before the Rancheria Project can be fully implemented. For that reason alone, the Rancheria Project should have prioritized Pacific fisher habitat protection and restoration as a co-equal goal of the project, to ensure that it maximizes those habitat elements necessary for the conservation and recovery of Pacific fishers. Instead, the project, under Alternative 2, will degrade many of those habitat elements, which is contrary to the conservation and recovery of the species under the ESA.

For Sequoia ForestKeeper, the Kern-Kaweah Chapter of the Sierra Club, and Western Watersheds Project.



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