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Subject: Frog Revision 1 EA Comments for Sequoia ForestKeeper and the Kern-Kaweah Chapter of the Sierra Club

Sequoia ForestKeeper (SFK) and the Kern-Kaweah Chapter of the Sierra Club (the Club) thank you for the opportunity to comment on the **Frog Revision 1 Project EA**.

The Frog Project's proposed action would continue ground-based logging on 1,260 acres, removing 4.4 million board feet of commercial timber. These activities would be carried out under an existing contract with Sierra Forest Products, which was entered in over 10 years ago, on October 23, 2001. Activity fuels would receive prescribed burning or jackpot burning. Furthermore, the proposal removes hazard trees along roads and high use areas.

#### Failure to Fund the SNAMP Study

The Forest Service failed to fund the SNAMP Fisher research the Forest Service committed to funding in the 2004 Framework Appeal decision. The Frog Timber Sale proposes canopy cover reductions to 40% in accordance with the 2004 Framework throughout the project area, which is in the Southern Sierra Fisher Conservation Area (SSFCA). The SNAMP Fisher research would presumably have determined if thinning in the Fisher habitat could benefit the fisher. But because the Forest Service is no longer going to do the research, there will be no research conclusion on the benefits or harms of thinning in fisher habitat, and there is no proof that thinning in fisher habitat is at all beneficial or not harmful to fisher survival. Therefore, thinning should not proceed in fisher habitat until and unless the research is completed and concludes that thinning in fisher habitat can benefit fisher survival.

#### Cumulative Effects From All Projects In The SSFCA Are Incomplete

The Frog Project analysis is flawed because it does not consider the full range of cumulative effects from the various projects in the Southern Sierra Fisher Conservation Area. Because the Forest Service has chosen a cumulative effects time horizon to extends 20 year from now, it must consider the potential effects of Wildland Urban Interface (WUI) fuel treatment acres that will be proposed as part of the Giant Sequoia National Monument (GSNM) plan. While these are not yet expressed on the SOPA or with specific projects, it is likely that the plan will include significant fuel treatments in Pacific fisher habitat, so that their cumulative effects can be considered "reasonably foreseeable."

An EA is inadequate in addressing the cumulative effects of multiple projects when they are not described in the analysis. A cumulative impact on the environment "results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions...." 40 C.F.R. § 1508.7. Cumulative impacts may result from "individually minor but collectively significant actions taking place over a period of time." *Id.* In determining whether a project will have a "significant" impact on the environment, an agency must consider "[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts." 40 C.F.R. § 1508.27(b)(7). If several actions have a cumulative environmental effect, "this consequence must be considered in an EIS." *Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F.3d, 1372, 1378 (9th Cir. 1998) (quoting *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1312 (9th Cir.1990)).

Because the White River and Saddle projects are still under contract, and because it is foreseeable that they will be implemented in the near future, that the Rancheria Project will likely move forward in some significant form, and considering other impacts on Pacific fisher from impacts from cars and OHVs, plantation thinning projects, roadside hazard projects, and future fuel treatments planned in the GSNM's WUI, there is substantial evidence that there could be significant effects on the Pacific fisher population and its habitat, and a FONSI is not appropriate. Instead, the Forest Service must prepare an EIS and should consider further alternatives to the proposed action. *See Blue Mountains Biodiversity Project v. Blackwell*, 161 F.3d 1208, 1212 (9th Cir. 1988):

An EIS must be prepared if "substantial questions are raised as to whether a project ... may cause significant degradation of some human environmental factor." *Idaho Sporting Congress [v. Thomas]*, 137 F.3d [1146,] 1149 [(9th Cir. 1998)] (internal quotation omitted). Thus, to prevail on a claim that the Forest Service violated its statutory duty to prepare an EIS, a "plaintiff need not show that significant effects will in fact occur." *Id.* at 1150. It is enough for the plaintiff to raise "substantial questions whether a project may have a significant effect" on the environment. *Id.*

To determine whether a proposed project will have "significant" impacts on the environment, an agency must evaluate "the degree to which the effects on the quality of the human environment are likely to be highly controversial," and "the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks." 40 C.F.R. §§ 1508.27(b)(4), (b)(5).

Because the Frog Environmental Analysis is incomplete with respect to cumulative effects, SFK and the Sierra Club have raised substantial questions about whether this project and others may have a significant effect on the fisher. Therefore, the Forest Service cannot issue a FONSI and must prepare an EIS to consider the overall effects to the fisher and its habitat in the Southern Sierra Fisher Conservation Area.

Comments by John Muir Project, Earth Island Institute, Incorporated by Reference

SFK and the Club incorporate the comments by Dr. Chad Hanson and the John Muir Project (JMP) by reference, except that SFK and the Club cannot support Alternative 3 and only support Alternative 1, the no-action alternative. JMP's comments, without the scientific studies and data supplied by Dr. Hanson, are attached for your reference.

In those comments, Dr. Hanson makes the following points, which SFK and the Club support:

1. Because the 2004 Framework has been deemed illegal, the Forest Service should be using the 2001 Sierra Nevada Framework for this project.
2. Because there are significant effects, a full EIS must be prepared.
3. The EIS must consider new information California spotted owls, including
  - a. miscalculations of basal area reductions,
  - b. continued population declines in the Sierra Nevada, and new information from the SNAMP study,
  - c. the fact that California spotted owls avoid thinned areas,
  - d. the overstatement of threats to owls from fire,
  - e. the failure to acknowledge post-fire occupancy of owls in the McNally Fire area,
  - f. the misrepresentation of climate data.
4. The Sequoia National Forest is threatening the viability of the California Spotted Owl.
5. The analysis' misrepresentation of the effects of fire on Pacific fishers.
6. The analysis' misrepresentations of the project's promotion of "forest health."
7. The analysis' misrepresentation of the term "resilience."
8. The analysis' misrepresentation of historic fire data.
9. The analysis' misrepresentation of data on stand density indices.
10. The use methodologies that generally misrepresent stand density by selectively eliminating data that skew results about overall stand densities.
11. The failure to explain the basis for current and future basal area calculations.
12. The failure to make a rational connection between the fact that basal area from implementation of the project could be reduce more than if the project were not to move forward.
13. The failure to fully discuss the implications from thinning and the need to retreat areas for long periods beyond 20 years.
14. The failure to recognize the ecological importance of fire, including high-intensity fire.
15. The failure to recognize that the thinning of small-diameter trees, 8-10 inches in diameter or smaller, can effectively reduce fire severity.

Critique of North et al. (2009)

The revised Frog analysis cites the North et al., 2009 (PSW-GTR-220), paper and states that the Frog project "action alternatives are in line with this strategy." This paper is not a peer-reviewed scientific publication, and the analysis' heavy reliance on this strategy is misplaced.

PSW-GTR-220 presents many good concepts. However, PSW-GTR-220 fails to consider all the available fire science, makes some un-cited claims, and fails to discuss the gaps in science that remain, which if filled could clarify some remaining questions.

Comments on specific citations from PSW-GTR-220:

- 1) p. 1 says: to provide managers of Sierran forests with a summary of “the best available science.” THE PROBLEM IS THAT RESEARCH NOT SUPPORTING MIGHT NOT BE PRESENTED. For instance, the fire science of Jack Cohen (Jack D. Cohen, Research Physical Scientist, Fire Sciences Laboratory, PO Box 8089, Missoula, MT 59807 406-329-4821 (fax) 406-329-4825 jcohen@fs.fed.us) has not been considered. In a personal communication dated March 17, 2003, Jack Cohen said, “We know that fuel breaks don't stop spotting--that is why I suggest making the community the fuel break.” (Exhibit A 100316-8.COHEN) However North et.al. endorses the strategic placement of fuel treatments across forest landscapes despite the science that fuel breaks do not stop spotting and fails to evaluate ecosystem responses to treatments or address how forests might be ecologically restored or wildlife habitat enhanced by the treatments.
- 2) p. 1 says: we do not specifically address the issues of water yield and quality in this paper. SCIENCE OF WATER IS IMPORTANT AND THE PAPER IS NOT PROVIDING A FULL BASIS OF SCIENCE...
- 3) p. 2 says: Although our focus is on forest conditions, the suggested management practices may also make forest more resilient.... THE PROBLEM IS THAT IT MAY NOT.
- 4) p. 2 says: Management practices that help restore the forest headwaters of Sierran watersheds will benefit water production and quality for downstream users. THE PROBLEM IS THAT ON P. 1 IT SAYS WATER WILL NOT BE CONSIDERED, SO THERE IS NO SCIENTIFIC BASIS FOR THIS CONCLUSION.
- 5) p. 2 says: Fire scientists have developed effective models for the strategic placement of these fuel treatments. JACK COHEN NOT LISTED AND IS NOT CONSIDERED IN THIS PAPER. North et.al. endorses the strategic placement of fuel treatments across forest landscapes despite the science that fuel breaks do not stop spotting and fails to evaluate ecosystem responses to treatments or address how forests might be ecologically restored or wildlife habitat enhanced by the treatments.
- 6) p. 3 says: ...using modeling software to understand how the load of different fuel sizes and weather conditions affect predicted fire intensity. THE PROBLEM IS MODELS ARE NOT PERFECT, WE MUST KEEP IN MIND THE ADAGE, GARBAGE IN GARBAGE OUT.
- 7) p. 6 says: By itself prescribed fire will be difficult to apply in some forests owing to fuel accumulations, changes in stand structure, and operational limitations on its use. THIS

IS AN EXCUSE FOR MECHANICAL AND LOGGING. The report must be specific about the results of prescribed fire that it considers “difficult.”

- 8) p. 7 says: An analysis of fire severity and size in California has found an increase in both, along with a regional rise in temperature. TEMPERATURE HAS RISEN VERY LITTLE IN THE LAST FEW DECADES. SO MIGHT FIRE SEVERITY AND SIZE INCREASES REALLY BE TIED TO MAJOR CLEARCUTTING IN THE LAST FEW DECADES?
- 9) p. 9 says: frequently burned forests had very low tree densities. THIS MAKES SENSE, EXCEPT WHERE FIRE DID NOT BURN IN THE MOSAIC, THERE WERE CLUSTERS AND EVEN LARGER AREAS OF DENSE CANOPY THAT WOULD HAVE SUPPORTED WHITE FIR AND INCENSE CEDAR. MUIR NOTED LARGE STANDS OF SUCH TREES (SEE MUIR NOTES FROM HIS BOOK *THE MOUNTAINS OF CALIFORNIA*).
- 10) p. 9 says: ...understory thinning followed by prescribed fire produced the greatest reduction in potential wildfire severity without severely reducing carbon stocks (North, et al., in press) WE NEED TO SEE THIS PAPER. As climate changes, managing the process or behavior of fire (i.e., manipulating fuels to influence burn intensity) may produce more resistant and resilient forests than managing for a desired number and size of trees. VERY INTERESTING.
- 11) p. 9 says: ...in areas of wildland fire and prescribed burning, forest structure and composition are allowed to reestablish to modern dynamic equilibrium by adapting to fire that occurs under current climate and ignition conditions. SO FIRE SHOULD BE THE MAIN TOOL TO USE.
- 12) p. 9 says: This suggests that free-burning fires, over time, can regulate fire-induced effects across the landscape. FIRE SHOULD BE THE ONLY TOOL USED.
- 13) p. 10 says: Large decadent trees are less common in the Sierra Nevada than they once were and providing for this structure requires protecting existing large trees, managing for their future development, and reducing major threats (i.e., high-severity fire and pest mortality). THIS SOUNDS GOOD, BUT HOT FIRE AND PEST MORTALITY MUST HAVE A ROLE TOO.
- 14) p. 11 says: A cautious strategy would be emulating patterns created by natural disturbance to provide a heterogeneous mix of forest habitat across a management landscape. WHY NOT LET FIRE GO WILD? EMULATING MIGHT MEAN LOGGING. THIS IS AN EXCUSE TO ENABLE LOGGING.
- 15) p 11 says: Retaining these large snags and logs may increase fire hazard.... THIS IS NOT A GOOD ATTITUDE. FIRE IS NEEDED.

- 16) p. 12 says: (this goes on from p. 11 re Pacific fisher) We do not yet have a good understanding of how best to distribute potential rest sites or how many are needed. THIS IS AN EXCUSE FOR LOGGING AS PLANNERS WILL DECIDE WHAT TO LEAVE, PERHAPS MINIMALLY, FOR THE FISHER. First, do no harm.
- 17) p. 12 says: In many areas, hardwoods are in decline because they have become overtopped and shaded by conifers. NO REFERENCE CITATION IS GIVEN FOR THIS IDEA. HOW MUCH LIGHT DO OAKS REALLY NEED FOR RECRUITMENT? While plan direction already calls for protecting oaks, loggers in the Revised Ice timber Sale units felled oaks up to 18 inch diameter when they are directed to protect all oaks.
- 18) p. 12 says: Provisions are needed to create open areas within stands to facilitate hardwood recruitment. THIS IS JUSTIFICATION TO REMOVE SOME TIMBER FIRST AND THEN HOPE HARDWOODS COME IN. WHAT CITATION PROVES THIS CONCLUSION? While plan direction already calls for protecting oaks, loggers in the Revised Ice timber Sale units felled oaks up to 18 inch diameter when they are directed to protect all oaks.
- 19) p. 14 says: Forest management practice have sometimes removed decadent, broken-topped, or malformed trees that are actually some of the most important features of habitat for wildlife species.... These defect trees are some of the rarest structures in current forest conditions. MANY ARE REMOVED AS HAZARD TREES ALONG ROADS. THEY OBVIOUSLY ARE NOT THAT DEFECTIVE, AS MANY GO TO THE MILL AS SAWTIMBER.
- 20) p. 14 says: (of a guide to identify defect trees for the Klamath Mountains) Developing a similar guide for Sierra forests would be extremely useful. What scientific guides will Sequoia National Forest use? North et.al did not evaluate Sequoia's guidelines.
- 21) p. 16 says: At the stand level, vertical heterogeneity can still be provided by separating groups of trees by their canopy strata (fig. 5). For example, a group of intermediate-size trees that could serve as ladder fuels might be thinned or removed if they are growing under large overstory trees. HERE A MANAGEMENT ACTIVITY WOULD TAKE THE INTERMEDIATE-SIZED TREES. THERE IS NO CITATION. THIS IS AN EXCUSE FOR LOGGING THAT SIZE CLASS THAT OTHERWISE MIGHT GROW TO BECOME LARGE TREES AND SUSEQUENTLY DEFECT TREES AND SNAGS.
- 22) p. 16 says: To increase horizontal heterogeneity, we suggest using microtopography as a template (Sherlock 2007) (fig. 6). WE NEED TO READ SHERLOCK (2007) TO SEE THAT EXPLAINED.
- 23) p. 20 says: We suggest creating landscape heterogeneity in the Sierra Nevada by mimicking the forest conditions that would be created by the fire behavior and return interval associated with differences in slope position, aspect, and slope steepness

(Sherlock 2007). MIMICKING SEEMS TO IMPLY MECHANICAL TREATMENTS AND ANOTHER EXCUSE FOR LOGGING.

- 24) p. 20 says: In general, stem density and canopy cover would be highest in drainages and riparian areas, and then decrease over the midslope and become lowest near and on ridgetops (fig.10). HOW CAN THIS BE TRUE IN ALL AREAS? WHERE IS THE CITATION FOR THIS CONCLUSION?
- 25) p. 24 says: If trees larger than 10 to 16 inches in d.b.h. are thinned, it is important to provide reasons other than for ladder-fuel treatment. THIS IS ANOTHER EXCUSE TO USE ALL OF THE OLD REASONS USED TO JUSTIFY CUTTING TREES, INCLUDING TO HELP PAY FOR THE WORK. NOTHING IS CHANGED. There are reports showing changes in fire behavior from removing trees up to 9 and 10 inch diameter and trees up to 16 inch diameter. But science shows the importance of small diameter trees for songbirds and reports indicate that bushes and the smallest diameter trees up to 3 and 4 inches in diameter represent the greatest fire danger. There is a need to study the affects of treatments that would be limited to removing only small diameter materials in the ranges up to 3 and 4 inch, 5 and 6 inch, and 7 and 8 inch in diameter before concluding that taking larger trees is the best way to change fire behavior.
- 26) pp. 24-25 asks: Under what conditions could intermediate trees be thinned? THIS IS ANOTHER EXCUSE FOR LOGGING.
- 27) p. 26 says: Trees are harvested and timber is an output, but the silvicultural system's focus is on retained stand structures, not what is removed for harvest. MAINTAINING BIODIVERSITY AND ECOSYSTEM SERVICES SHOULD BE THE PRIMARY FOCUS, NOT REVOVAL OF ANYTHING FROM THE FOREST.
- 28) p. 26 says: This silvicultural revision will, however, require a new research project to adapt the MultiAge Stocking Assessment Model (MASAM) to Sierra Nevada mixed-conifer. THIS CONCEPT IS POORLY EXPLAINED IN THE PAPER. THE RESULTS OF THE PILOT PROJECT WILL NOT BE AVAILABLE FOR A HUNDRED YEARS.

### The EIS Should Consider A New Alternative That Limits Treatments to within 200 feet of Structures

In general, SFK and the Club support fuels reduction projects implemented within 200 feet of structures, because scientific research indicates that such projects would protect communities.

The Frog Timber Sale Project should only be implemented in the 200 feet immediately adjacent to the structures to prevent spotting in this area adjacent to the homes and structures, so the homes and structures are not ignited by wildland fire. Our assertion is supported by the research of Jack Cohen, Research Physical Scientist Forest Service Fire Sciences Laboratory, Missoula, MT. Jack Cohen stated in a personal communication dated March 17, 2003,

*“You are correct in stating that my research indicates that modifying the home ignition zone (the home and its immediate surroundings within 200 ft) can perform the necessary and sufficient changes that effectively reduce home ignitability during extreme wildfire conditions. My research does address firebrands and spot ignitions. Putting a fuel break around communities without modifying the community will not be sufficient to significantly reduce the home ignition potential during extreme conditions. We know that fuel breaks don't stop spotting--that is why I suggest making the community the fuel break. This produces far less landscape disturbance for the purpose of community protection and reduces the community threat from any kind of wildland fire. That should provide increased opportunities for prescribed burning.”*

The research report upon which Cohen based his remarks is from the Forest Service Fire Science laboratory titled, “Wildland Fire Threat to Homes; Where and How Much” by Jack Cohen. This research must be considered in planning this project.

Also, the Forest Service has different pots of money for Fire Safe Councils to do projects on private land, which is how this project could be applied to private land where it would effectively protect the structures per Cohen, while the current treatment scheme, miles from structures, would not stop flying embers from igniting the structures.

For Sequoia ForestKeeper and the Kern-Kaweah Chapter of the Sierra Club,



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