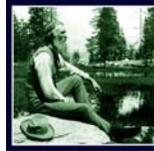
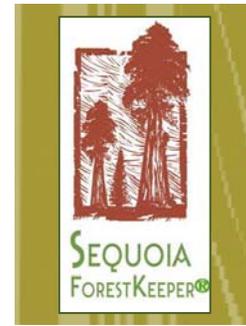




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February 1, 2016

Joan Friedlander
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Pacific Southwest Region
USDA Forest Service
Vallejo, CA
Sent to: R5planrevision@fs.fed.us

Re: Comments on draft list of Species of Conservation Concern

Please find below comments regarding the Species of Conservation Concern Lists for the Sierra, Sequoia, and Inyo Forests.

We have submitted detailed comments in the past (August and November, 2015) that have not yet been incorporated into the USFS SCC documents. Our comments provide important scientific and status information regarding, for example, the black-backed woodpecker, and we therefore ask that all of our previous letters be incorporated, as well as this one.

Before we further discuss specific species, we note that there exist several overarching issues that apply to all the draft SCC lists.

First, the Planning Rule requires the use of the best available scientific information (BASI), but it is clear that the USFS has not relied upon the best available scientific information for the species it has rejected from the SCC draft list. For example, many of the species have very few documents listed for them, fail to mention positive ESA 90-day findings, and sometimes rely primarily on the NatureServe website, which can be out of date or missing important information, especially information that is specific to the plan area. As discussed below, the black-backed woodpecker highlights these problems as the SCC lists currently lack the bird's most recent status (S2) as well as numerous papers regarding its biology and threats to it. Furthermore, even as to the scant documentation that the SCC draft list contains, there is no meaningful connection drawn between that information and the assertions/conclusions made. Reliance on BASI requires that the USFS explain how they relied on the information at hand, not just that the agency cite to it. Finally, we do not understand why, even after significant documentation was provided to the USFS in 2015, by our organizations and others, that information continues to be ignored. We have provided in depth explanations regarding the current state of science as to a number of species left off the draft SCC list and that information must be incorporated.

Second, the USFS is making conclusions about SCCs based on the assumption that components in the FEIS/Final Plan will necessarily be able to support certain species. But that is speculation, and, in fact, we have not yet seen a single standard or guideline that would protect important wildlife attributes such as medium and large trees; medium and large snags; shrubs; canopy cover; or aquatic areas. Moreover, if it is known that a species requires certain management to reverse trends and provide stability, then it should be on the SCC lists to ensure that these needs are addressed in the development of plan components. The purpose of the SCC lists is to use them to develop plan components so that species, such as black-backed woodpecker, that require certain protection measures for persistence, are adequately addressed in the forest plans. Indeed, for species with known threats due to actions regulated by the forest plan (e.g., logging), SCC designation is necessary to ensure that plan components maintain the ecological conditions on which the species depend and provide for viable populations in the plan area.

Third, the “substantial concern” standard that is the basis for the designation of SCCs is being misapplied. The goal of SCC designation is, in part, to prevent the need for the listing of that species under the ESA. As the Forest Service has put it, “[w]e create an SCC list using the best available science in a proactive step intended to prevent species from becoming federally listed.” (“Species of Conservation Concern Frequently Asked Questions” (July 2015)). The Forest Service has also acknowledged that “the goal of [the SCC and Sensitive Species] lists is to prevent species from being federally listed as threatened or endangered,” and that the SCC list, as compared to the Sensitive Species list that currently exists, “has more comprehensive and defined criteria . . . making it less likely that a species in need of help will be overlooked.” (“Species of Conservation Concern Frequently Asked Questions” (July 2015)). Unfortunately, the opposite is occurring with the draft SCC list, as many species, including a number of species that currently are considered “Sensitive”, are being overlooked.

Not only are “Sensitive” species being wrongly denied SCC status, it also appears that the SCC process is essentially using an ESA listing standard to determine whether a species should receive SCC designation. This is despite the fact, as noted above, that the Forest Service has acknowledged that the intent of SCC status is to help avoid ESA listing. “Substantial concern” is a lesser standard than ESA “warranted,” and, moreover, ESA listed and ESA candidate species are addressed separately from SCC under the 2012 Planning Rule. One example of this error is the black-backed woodpecker—even though it has received a positive 90-day finding under the ESA, is designated “S2” in California, and faces direct threats to its primary habitat, it has not been included on the draft SCC lists.

“Substantial concern” is defined by the Forest Service as “credible evidence that there is a concern about a particular species’ ability to persist within the forest.” (“Species of Conservation Concern Frequently Asked Questions” (July 2015)). Such “evidence” includes (i) “species has been identified as imperiled as a result of status reviews described in the scientific literature and listed in widely accepted databases such as NatureServe, a nonprofit organization that provides proprietary wildlife conservation-related data, tools, and services,” (ii) “[s]ignificant threats, such as climate change or competition from exotic species,” (iii) “[f]ield surveys have documented declining SCC populations or habitat in the forest plan area,” or (iv) “the species is known to have low population numbers or restricted habitat within the forest plan area.” (“Species of Conservation Concern Frequently Asked Questions” (July 2015)). As an example of

misapplication, all of these identifiers of SCC status apply to the black-backed woodpecker and yet it is not included on the draft SCC lists. The black-backed woodpecker has been identified as “S2” in California, is threatened by climate change and post-fire logging, has been documented to be in decline or reduced occupancy (see, e.g., Roberts et al. 2015; Siegel et al. 2015), and is extremely rare with very restricted, and ephemeral, habitat.

Fourth, several species (e.g., marten and goshawk) that are currently recognized on the Regional Forest Sensitive Species (RFSS) list are not being designated “SCC” despite the concern the data shows for them. We find no basis for these omissions since the Forest Service has stated in the 2012 Planning Rule that RFSS are similar to SCC and the purpose of both the RFSS and SCC approaches to land management is to prevent the federal listing of at-risk species.

Species Specific Comments

Black-backed woodpecker

The evaluation of black-backed woodpecker to date has not addressed the available information on status and trend, has not addressed the extensive literature on this species, and has not incorporated the detailed, science-based comments we submitted for this species.

The most recent SCC tables fail to mention that the black-backed woodpecker: (1) received a positive ESA 90-day finding; and (2) is currently designated as “imperiled” (S2) in California.¹ This information alone strongly supports inclusion on the SCC list. In addition, a long list of reports and published papers exists regarding the status, the trends, habitat conditions, and threats to black-backed woodpecker, yet the most recent SCC tables fail to acknowledge this extensive literature. Of significant concern is the failure to note post-fire logging as a threat and the omission of black-backed woodpecker in the table for the Inyo National Forest. Moreover, while we have been told that species experts have been consulted about the SCC lists, inquires to several black-backed woodpecker experts indicate they were not contacted.

The rationale provided by the USFS for not including the black-backed woodpecker on the SCC list states that “proposed actions of the revised forest plan . . . are expected to result in more high-severity burned habitat in the plan area throughout the plan period, while also sustaining green forest habitat (that includes snags) for this species.” This statement is misinformed in several ways. First, as mentioned in our general comments above, it is inappropriate to rely on speculative management when evaluating inclusion on the SCC list. Second, it fails to identify that post-fire logging, an action under the control of the agency, is a threat to this species. The body of scientific literature that establishes post-fire logging as a threat is vast and it is remarkable that the documentation simply ignores this. Lastly, the documentation fails to acknowledge that the best available science (e.g., Rota et al. 2014b; Fogg et al. 2014; Tingley et

¹ California Department of Fish and Wildlife, Special Animals List, January 2016: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline=1>. S2 is defined as “imperiled in the nation or state/province because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the nation or state/province.”

al. 2014) shows that green forest is secondary habitat for the black-backed woodpecker and is not known to be capable of supporting viable black-backed woodpecker populations.

There is a long list of literature available for this species. This literature explains that black-backed woodpeckers in California are separate from the black-backed woodpeckers in boreal forests (Pierson et al. 2010 [“a barrier likely exists between Oregon and the boreal forest. . . . values are similar to those documented among subspecies or separate clades”]).

Furthermore, “substantial concern” exists for the black-backed woodpeckers in California because:

- Their primary habitat—dense, mature, middle/upper-elevation conifer forest that recently burned at high-severity— is rare and ephemeral, both temporally and spatially, and even in large fires can be of limited availability (Casas-Planes et al. 2016 [“Optimal and potential habitat for Black-backed Woodpecker comprise 53.7 km² and 58.4 km², respectively, representing 5.1 and 5.6% of the overall footprint of the Rim Fire”]).
- This primary habitat is targeted for logging immediately post-fire (at 1-2 years), which coincides with when such habitat is of greatest value to black-backed woodpeckers. As recently published in Siegel et al. 2016, “results indicate that natal dispersal is the primary means by which Black-backed Woodpeckers colonize recently burned areas in western forests, and that breeding dispersal is uncommon. The decline of Black-backed Woodpecker populations 6–10 yr after fire likely reflects the lifespan of individual birds that colonized the burned area, or of offspring that they produced in the early postfire years.” Siegel et al. (2016) recommended that high priority be placed on protecting black-backed woodpecker habitat in the early post-fire years, which is when post-fire logging currently occurs.
- Not only is burned forest habitat limited in general, even when it does exist, there is limited availability of nest trees within it (Lorenz et al. 2015 [“Our findings suggest that past studies that did not measure wood hardness counted many sites as available to [black-backed woodpeckers]. . . . when they were actually unsuitable, potentially biasing results. Moreover, by not accounting for nest site limitations . . . , managers may overestimate the amount of suitable habitat. We therefore urge ecologists to incorporate quantitative measures of wood hardness into . . . nest site selection studies, and to consider the limitations faced by avian cavity excavators in forest management decisions.”])
- Post-fire logging has been and continues to be a serious threat to black-backed woodpeckers. For example, the Forest Service’s most recent Regional Numbers for the species show a loss of 35% of black-backed woodpecker habitat over the past 8 years due to logging on public and private lands within the Sierra region.

- Post-fire logging clearly harms woodpecker habitat as evidenced, for example, in Siegel et al. 2013a (map of black-backed woodpecker locations with the caption “Note the general absence of foraging locations within the post-fire harvest areas”), Campos and Burnett 2015 (“Black-backed Woodpecker. . . decreased with increasing area salvaged”), and many other publications. This is largely because the very snags that are most heavily targeted for removal in post-fire logging projects are the very snags that these woodpeckers prefer when foraging – medium and large snags (Siegel et al. 2013a; Siegel et al. 2014b [“Our past findings (Siegel et al. 2013) show that Black-backed Woodpeckers in burned forests of California preferentially select larger, dead trees in more severely burned areas for foraging.”])
- Current post-fire logging projects on National Forest lands in the Sierra Nevada illustrate at least two additional significant problems for black-backed woodpeckers: (1) in the only instance where actual surveys were conducted for black-backed woodpeckers post-fire (the King fire area), it turned out that far fewer black-backed woodpeckers were present than had been accounted for by modeling, and moreover, the areas identified as containing actual black-backed woodpeckers were overwhelmingly (80%) approved to be logged in the Forest Service’s ROD; and (2) the logging approved as to the 2014 fires (Bald, Eiler, French, and King Projects) represents a substantial increase in intensity/degree of removal of black-backed woodpecker suitable habitat relative to past years; this issue is further magnified by the fact that black-backed woodpecker habitat is ephemeral, meaning that while the USFS’ regional analysis (2007-2014) speaks to treatment of 20% of USFS burned forest black-backed woodpecker habitat (and 35% on all lands), as treatment intensity increases annually over time, and burned forest otherwise ceases to support black-backed woodpeckers, less and less habitat will be available for black-backed woodpeckers. This current trend is especially concerning in light of the overall dearth of habitat in the first place in burned forest—only 223,000 acres even using the Forest Service’s numbers from its most recent “regional analysis” (which includes areas that are likely not high quality black-backed woodpecker habitat).
- Available information indicates that black-backed woodpecker populations may be declining. Appendix A of Roberts et al. 2015 found that a “sharp decrease” in black-backed woodpecker populations is occurring in unburned forests throughout the Sierra Nevada in recent years (see Roberts et al. 2015, p. 39), and concluded that the data indicate a “strong change in green forest occupancy” appears to be occurring (Roberts et al. 2015, p. 40, and Figure A.1 on page 42). In a separate study conducted by the Institute for Bird Populations in burned forest, the authors found that occupancy in 2013 and 2014 were the lowest since the study began in 2009, and 2014 was the lowest year of all (page 2 of Siegel et al. 2015).
- While secondary habitat exists for black-backed woodpeckers in unburned forest (Fogg et al. 2014), the best available science shows that such habitat is very

likely of marginal value at best (e.g., Rota et al. 2014b [“population growth rates were positive only in habitat created by summer wildfire”]; Tingley et al. 2014, Siegel et al. 2013a [showing unburned forest home ranges to be drastically larger than burned forest home ranges, which is indicative of poor quality, and means the woodpeckers are traveling much farther, and expending far more energy, to obtain lesser food]). Thus, unburned forest cannot be relied on to dismiss concern for this species, and this is especially so given the extreme dearth of detections at all in unburned forest and the recent “sharp decrease” in such detections.

- Audubon (<http://climate.audubon.org/birds/bkbwoo/black-backed-woodpecker>) and Stralberg and Jongsomjit (2012) predict alarmingly substantial range contractions for the black-backed woodpecker in the Sierra Nevada in the coming decades due to a large-scale loss of higher-elevation montane and subalpine conifer forests from climate change, and USFWS (2013) identified these projected net losses of habitat, due to climate change, as a threat to black-backed woodpeckers.
- List of important black-backed woodpecker documents:

Bond, M.L., R.B. Siegel, R.L. Hutto, V. Saab, and S. Shunk. 2012. A new forest fire paradigm: the need for high-severity fires. *The Wildlife Professional* 6:46-49.

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Burnett, R.D., M. Preston, and N. Seavy. 2012. Plumas Lassen Study 2011 Annual Report. U.S. Forest Service, Pacific Southwest Region, Vallejo, CA.

Campos, B. R. and Burnett, R. D. 2015. Avian monitoring of the Storrie and Chips Fire Areas: 2014 report. Point Blue Conservation Science, Petaluma, CA.

Casas-Planes, A., M. Garcia, R.B. Siegel, C. Ramirez, A. Koltunov, and S.L. Ustin. 2016. Burned forest characterization at single-tree level with Airborne Laser Scanning for wildlife habitat assessment. *Remote Sensing of Environment* 175:231-241. PDF

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- Roberts, L.J., A.M. Fogg, and R.D. Burnett. 2015. Sierra Nevada National Forests Avian Management Indicator Species, 2014 Annual Report. Point Blue Conservation Science, Petaluma, CA.
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Nelson Desert Bighorn Sheep

Desert bighorns face substantial threats such as habitat fragmentation and degradation, as well as disease and climate change, and should therefore be designated an SCC on the Inyo National Forest.

For example, Epps et al. 2005 “analysed the effects of . . . barriers on connectivity and genetic diversity of 27 populations of *Ovis canadensis nelsoni* (desert bighorn sheep).” Their “findings link a rapid reduction in genetic diversity (up to 15%) to as few as 40 years of anthropogenic isolation. Interstate highways, canals and developed areas, where present, have apparently eliminated gene flow. These results suggest that anthropogenic barriers constitute a severe threat to the persistence of naturally fragmented populations.”

With regard to disease, a recent outbreak of pneumonia [shows](#) that this threat is very serious and ever present. As discussed by the Park Service document, “[i]n May 2013, a National Park Service employee who was inspecting wildlife guzzlers found four desert bighorn dead on Old

Dad Mountain, 15 miles southeast of Baker, California. The employee also observed other sick animals that appeared to be weak and unsteady with labored breathing. Laboratory analysis of blood and tissue samples indicated that it had pneumonia. This disease may enter desert bighorn populations from domestic sheep or goats and is usually fatal to bighorn.” Domestic sheep and goats are host animals for disease and domestic sheep have been found to co-mingle with Nelson bighorn sheep in the White Mountains; it is thus important to limit contact between native and domestic sheep to reduce the risk of disease outbreak and to stabilize the herd.

Climate change too is a serious threat. Epps et al. 2006 explains that they “assessed genetic diversity of 25 populations of desert bighorn sheep (*Ovis Canadensis nelsoni*) in southeastern California, where temperatures have increased and precipitation has decreased during the 20th century. Populations in low-elevation habitats had lower genetic diversity, presumably reflecting more fluctuations in population sizes and founder effects. Higher-elevation habitats acted as reservoirs of genetic diversity. However, genetic diversity was also affected by population connectivity, which has been disrupted by human development. Restoring population connectivity may be necessary to buffer the effects of climate change on this desert-adapted ungulate.”

Panamint Alligator Lizard

The Panamint alligator lizard is a Forest Service Sensitive Species for the Inyo National Forest, and the U.S. Fish and Wildlife Service recently determined that this species may qualify for listing under the Endangered Species Act.² Despite these two recent acknowledgements of threats to the species’ persistence, no clear explanation is provided to explain why the Forest Service has determined that the Panamint alligator lizard does not meet the qualifications to be included in the SCC list. As discussed above, one of the goals of the SCC list is to “prevent species from becoming federally listed.” Excluding species from the list that are currently being reviewed for listing under the ESA clearly does not match up with this stated goal, and moreover, the rationale provided does not support not putting the lizard on the SCC list:

Extent of occurrence and area of occupancy *probably* have been *relatively stable* over the long term. However, USFWS announced it is continuing with evaluation of this species for federal listing. (emphasis added).

These types of weak conclusions, with no reference to new information or papers, are clearly insufficient to determine the current status and likelihood of persistence in the plan area.

Under “Known Threats to Species Persistence” the table cites to a 2015 Status Review”; however, this status review is not included in the “Sources Used” section of the document so it is unclear where this information is coming from and if it is the best scientific information available. Climate change is included in the list of threats to this species, but it appears that the Service has not sufficiently considered this threat, as the Panamint alligator lizard is considered to be at high risk of impacts due to climate change. Wright et al (2013)³ built ecological niche

² 80 Fed. Reg. 37568 (July 1, 2015), 80 Fed. Reg. 19259 (April 10, 2015)

models for all 153 reptile and amphibian species in California to forecast the distribution of climatically suitable habitat under four future climate scenarios and eleven general circulation models for 2050. They measured risk as both the percentage of currently occupied localities remaining suitable in the future (Point Ranking), and the change in suitable area within a minimum convex polygon of currently occupied localities (Area Ranking) (Wright et al 2013). Reductions in climatic habitat suitability were predicted to be largest for reptiles in the southern mountains and deserts (Wright et al 2013). *E. panamintina* was identified as one of nine highest-risk species, defined as the species most at risk of climate shifting away from the range of conditions that they can tolerate based on current distributions (Wright et al 2013 at pages 12, 234-36).

Surprisingly, another important source not included in the “Sources Used” for this species, or any other amphibian or reptile species for that matter, was a Forest Service report, conducted to provide up-to-date assessments of these herpetofauna to assist in creation of a Regional Foresters’ Sensitive Species List for Region 5 National Forests (Evelyn and Sweet 2012⁴). In this conservation assessment, Evelyn and Sweet (2012) ranked each species as “High Concern,” “Some Concern,” “No Concern,” and “Data Deficient” within eight threat categories.⁵ The Panamint alligator lizard received a “High Concern” ranking for the categories 1, 4, 6, and 7, and a “Some Concern” ranking for all other categories (Evelyn and Sweet 2012). The lizard was one of only 15 species (of 62 fully assessed) to receive rankings of “High Concern” in 3 or more categories, and should be considered one of the most threatened herpetofauna in the Region 5 Forests.

Western Pond Turtle

The western pond turtle is included in the lists of Sensitive Species for the Sierra and Sequoia National Forests. The U.S. Fish and Wildlife Service determined in April, 2015 that this species may qualify for listing under the Endangered Species Act.⁶ Despite these two recent acknowledgements of threats to the species’ persistence, no real explanation is provided to explain why the USFS has excluded the western pond turtle from the draft SCC list, and instead the USFS has merely referred to the fact that the species is classified as G3 and S3. This

³ Wright, A.N., Hijmans, R.J., Schwartz, M.W., and H.B. Shaffer. 2013. California Amphibian and Reptile Species of Future Concern: Conservation and Climate Change. Final Report to the California Department of Fish and Wildlife Nongame Wildlife Program, Task 12, Contract No. P0685904.

⁴ Evelyn, C. J., and S. S. Sweet. 2012. Conservation Status of Amphibians and Reptiles on USDA National Forests, Pacific Southwest Region, 2012. Report prepared for USDA Forest Service, Region 5, Pacific Southwest Region, Patricia A. Kreuger (contact). Funded by 2010-CS-11052007-113. Pages 355-360.

⁵ 1) Spatial distribution on Region 5 National Forest system lands; 2) Distribution outside Region 5 National Forest system lands; 3) Dispersal ability of the taxon; 4) Abundance of localities on Region 5 National Forest system lands; 5) Population trend on Region 5 National Forest system lands; 6) Habitat trend on Region 5 National Forest system lands; 7) Habitat or taxon vulnerability; and 8) Life history and demographic traits.

⁶ 80 Fed. Reg. 19259 (April 10, 2015)

“Vulnerable” classification under NatureServe indicates that the species is considered to be “[a]t moderate risk of extinction or elimination due to a restricted range, relatively few populations, recent and widespread declines, or other factors.”⁷ This clearly does not match up to the USFS’ conclusion that this ranking means “there is not enough concern for long-term persistence in the plan area.”

As with the Panamint alligator lizard, the Forest Service report by Evelyn and Sweet (2012) appears to have not been considered in the decision to leave the turtle off of the draft SCC list. In this conservation assessment the western pond turtle received a “High Concern” ranking for the category 5 (“Population Trend in R5”), in part because “Populations of *Actinemys marmorata* have declined in R5, particularly in southern California south of the Santa Clara River where few large populations remain” (Evelyn and Sweet 2012). It also received a “Some Concern” ranking for all other categories (Evelyn and Sweet 2012). The report also documents that Patti Kreuger recommended continued listing as a sensitive species because “populations are isolated and not able to connect with one another” (Evelyn and Sweet 2012). There is nothing in the proposed SCC documents to show why this assessment would be any different today.

Thank you for addressing the above comments, and we look forward to working on SCC issues during the DEIS phase.

Sincerely,



Justin Augustine
Center for Biological Diversity

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John Muir Project of Earth Island Institute

Mr. Ara Marderosian
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⁷ <http://www.natureserve.org/conservation-tools/conservation-status-assessment>