

## Objection Issues

### WILDLIFE VIABILITY, MONITORING AND MIS

#### PRIMARY OBJECTORS:

Center for Biological Diversity and the John Muir Project, Earth Island Institute, **Justin Augustine**

Forest Legacy, **Craig Thomas and Michael Graf**

**Summary of Objections:** The objectors believe the Forest Service cannot rely on regional monitoring to ensure the viability of wildlife species in the basin. They contend that the approach of accomplishing the monitoring through the Sierra-wide bio-regional monitoring adopted in the 2007 MIS amendment conflicts with the 1982 Rule, which requires the LTBMU to conduct monitoring to ensure that species viability and diversity is being maintained in the planning area, i.e., the Tahoe Basin. 36 CFR § 219.19. They assert that the FEIS provides no response to this point, focusing instead on a discussion of the black-backed woodpecker. See Response to Comments, pp. 109-115.

The objectors believe that the Plan and EIS do not identify MIS based on criteria specific to the LTBMU Planning Area and thus miss the potential impacts of management activities on existing MIS and their specific habitats. The objectors contend that dropping MIS will not ensure wildlife viability and diversity in Tahoe Basin.

The objectors commented that viability is one of, if not the, most important issues at stake and can therefore not be lumped into a generic claim that “[i]t is unnecessary and would be impractical to include every regulatory concept in the 1982 rules.” That is simply a non-answer and is irrelevant. Likewise, simply because viability is not “new” is not a good reason not to include it in explicit and clear fashion.”

In addition, the objectors contend the Plan and FEIS do not comport with NFMA and NEPA as to wildlife viability, environmental consequences of the action, and the mandate to take a “hard look” at the Plan’s impacts.

#### What is Required

## **The 1982 Planning Rule requirements (standards of review):**

- *Viability*: “[H]abitat shall be managed to maintain viable populations of existing native and desired nonnative vertebrates in the planning area. . . . [H]abitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.” (36 CFR 219.19).
- *MIS*: MIS are selected “because their population changes are believed to indicate the effects of management activities. . . . Population trends of the [MIS] will be monitored and relationships to habitat changes determined. . . .” 36 CFR 219.19 (a)(1) and (6). Note: *The rule does not require any particular quantity or quality of MIS monitoring, and does not specify where MIS monitoring must take place.*
- *MIS*: “Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the [MIS].” (36 CFR 219.19 (a)(2)).

## **Review Team Summary:**

**Viability:** The LTBMU takes a reasonable approach to meet the intent of the 1982 Rule. Individual members of species found within the planning area belong to populations that extend well beyond the boundary of the planning area. Therefore, the LTBMU can emphasize restoration of habitat and provide habitat for members of the populations, and contribute to the stability of those populations, but cannot provide for enough adequate habitat to maintain species viability. The regulation cannot be read to require the impossible; i.e., provide more habitat than it has. The LTBMU is an extremely small area (81,000 acres outside wilderness and backcountry), and, as explained in Appendix E of the plan, “it does not (cannot) provide for viability within the planning unit area for many of the wide ranging native vertebrate species . . . .However,. . . [it] does provide for conservation of species . . . by providing habitat to support species reproductive individuals and provide for connectivity to surrounding habitat . . . .” (App. E-5).

**Adequacy of Plan’s MIS monitoring requirements:** The 1982 rule does not require MIS to be monitored solely within the plan area, and does not require any particular amount or quality of monitoring, only that it be sufficient to detect population trend. The LTBMU’s reliance on monitoring of management activities throughout the ecoregion by the Sierra Nevada Framework will continue to provide useful information to show effects of similar management within the LTBMU on MIS.

Reliance on monitoring on an ecoregional scale will not ensure monitoring of certain management actions allowed on the LTBMU but not in other Sierra Nevada forests. While all Sierra Nevada forests, including the LTBMU, generally require retention of trees  $\geq 30$  inches diameter at breast height (dbh), and allow for exceptions for safety and operational constraints, the LTBMU also allows for exceptions for ecosystem health purposes.

**Response regarding discussion of FEIS alternatives in terms of MIS:** The analytical conclusions in the MIS chapter are often not stated clearly and it is sometimes not possible to tell if habitat quantity or quality is being discussed; therefore FEIS discussion of quality of habitat and trends of MIS by alternative needs to be clarified.

The 1983 Rule requires that “Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the [MIS].” (36 CFR 219.19 (a)(2)). The EIS is not very clear about how the quality of habitat and trends of MIS varies by alternative.

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## INSTRUCTIONS BEING CONSIDERED

- Instruct the Regional Forester to require the Lake Tahoe Basin to clarify in the EIS how the quality of habitat and trends of MIS varies by alternative.

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## REMEDIES PROPOSED BY OBJECTORS

1. Present a plan for how viability and diversity will be assured before and after the transition to the 2012 Planning Rule.
2. Add a forest-wide standard (not a guideline) requiring the Forest Service to maintain at least viable populations of all MIS on the LTBMU planning area. Include Plan level presence/absence monitoring for MIS in the LTBMU. If, populations are decreasing for MIS regionally or locally, include monitoring for MIS in the Basin that assess before and after changes to MIS occupancy.
3. Review post-project habitat change for MIS in an adaptive management framework to ensure viability and diversity of MIS.
4. Retain the bald eagle, peregrine falcon, mule deer, mallard, willow flycatcher and black bear as MIS on the LTBMU. Engage partners in monitoring designs and tracking to lower costs.

5. Violation of 1982 Planning Rule Requirements; Failure to maintain viable populations of MIS (spotted owl, marten, flying squirrel).
6. The Plan is violating the 1982 Rule Requirements to Ensure Diversity of Wildlife in Tahoe. Forest plans must “provide for diversity of plant and animal communities.” 16 U.S.C. § 1604(g)(3)(B). To implement the statutory directive, the 1982 NFMA regulations require the Forest Service to “maintain viable populations of existing native and desired non-native vertebrate species in the planning area.” Id. § 219.19. A “viable population” is defined as “one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area.
7. To ensure that the Forest Service meets the diversity and viability requirement, the 1982 Regulations require monitoring “[a]t intervals established in the plan” to evaluate “how well objectives have been met and how closely management standards and guidelines have been applied,” at which point “the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as are deemed necessary.” See 36 CFR 219.12(k).
8. Monitoring requirements identified in the forest plan shall provide for “a quantitative estimate of performance comparing outputs and services with those projected by the forest plan and “[d]ocumentation of the measured prescriptions and effects, including significant changes in productivity of the land.” Id.
9. Revise the LTBMU Monitoring Plan by following the recommendations of the Forest Service Research Branch--RMRS-GTR-161--Chapter 7-Critical Elements for Successful Monitoring SFL Coalition Objection to LTBMU Forest Plan, FEIS and Draft ROD 1-21-14 78 .The following are key recommendations for continuing improvement of monitoring of terrestrial animals and their habitats: Make a national commitment to improve monitoring of terrestrial animals and their habitats.
10. Ensure that all monitoring contributes to adaptive management by exploring both the causes for trends and alternative scenarios that could reverse unfavorable trends. Ensure that all monitoring complies with USDA Data Quality Guidelines.  
Implement Regional monitoring strategies that integrate habitat and population monitoring.  
Monitoring habitat alone will rarely be sufficient for adaptive management because habitat

relationships are not well understood and may not be predictable.

- Adopt and integrate three types of monitoring (context, targeted, and cause-and-effect).
  - Use sound ecological principles and risk assessment to prioritize and design monitoring activities.
  - Recognize that monitoring is multi-scalar. Coordinate across ecological and administrative scales, with emphasis on the role of the Regions.
  - Establish appropriate roles and coordination for NFS and R&D from WO through Forest levels.
  - Provide adequate staffing, skills, and funding structures to accomplish monitoring objectives.
  - Use partnerships and interagency coordination to accomplish monitoring objectives.
  - Ensure that individuals and teams responsible for monitoring, development, and oversight have appropriate skills.
- a. Following these recommendations would allow the Forest Service, in conjunction with partners and collaborators, to identify appropriate monitoring questions and designs for terrestrial animals and habitats and collect data needed for adaptive management over the long-term. Absent these critical elements the current Monitoring Plan fails to meet important criteria for designing adaptive management responses derived from credible and timely monitoring efforts. The LTBMU Monitoring Plan fails to provide key metrics that would address the new risky proposed in the Forest Plan (p. 110, SG 33), such as a variety of unlimited exemptions for harvesting large trees >30" diameter mentioned elsewhere in our objection. Also highly risky, untested exemptions for treatments in spotted owl and goshawk protected activity centers have no specific threshold where consideration of impacts would be reviewed due to reaching a trigger point defined in the Monitoring Plan. This is unacceptable and contrary to law.

11. Utilize the Dinkey CFLRP Monitoring Plan with clear indicators and triggers as a template to redesign the LTBMU Monitoring Plan. This Monitoring Plan was collaboratively developed by the Forest Service, Research Scientists, and various stakeholders as part of the Dinkey Collaborative. The acreage for this plan is nearly identical to the LTBMU (153,000 ac) and on a budget with limited funding. Attached is a portion of the Dinkey Monitoring Report (attached), on the Sierra National Forest for Sensitive Raptors provided as an example of specific trigger points that function as a key part of our annual monitoring review in the Dinkey Collaborative. The full report is submitted as part of our objection. We request as part of this objection that the LTBMU Monitoring Plan be revised with particular attention to improved designs (with clear thresholds and triggers) to better assess impacts (exemptions to historic protection measures) for at-risk species. It is also important to design SFL Coalition Objection to LTBMU Forest Plan, FEIS and Draft ROD 1-21-14 79 clear measures that track the intensity of use of the >30"

diameter tree removal (SG 33) exemption and additions to the exemptions list that include calling out an examination of habitat features that would prohibit or limit removal based on the call of the wildlife biologist.

12. The Forest Monitoring Plan is absent any specific indicators for insuring the LTBMU project marking will follow the intent of GTR-220 and utilize specific design marking criteria that will increase heterogeneity, retain key habitat attributes, limit even tree-spacing, and identify and protect large tree clumps. These new design principles, in which Sierra Forest Legacy has been a key partner and co-author (PSW-GTR-237), move beyond the simpler stand density-thinning metrics of (Dunning and Renieke 1933) which were designed for younger, fast growing trees and commercial timber production. The new marking direction focuses on disturbance-based ecology and asked the question: How would fire leave its mark on the land under a natural fire regime? It includes newer ideas of individual tree, clump and opening (ICO) design features with a strong emphasis on maintaining habitat for at-risk species. Sierra Forest Legacy has participated in numerous symposiums, field marking sessions, pre-post treatment discussions with PSW researchers, land managers and marking crews designing and refining projects to ensure outcomes outlined in disturbance-based approaches and the GTR-220/237 reports. This is a reasonable and feasible request to further codify, as a Standard and tracked in the Monitoring Plan, practices already in place in projects throughout the Sierra Nevada. (Examples: Keddie and Jackson projects on the Plumas NF; North 49 project on the Lassen NF; Sagehen project on the Tahoe NF; Grizzly and Blacksmith projects on the Eldorado NF, Reynolds project on the Stanislaus NF; All projects within the Dinkey CFLPR on 150,000 acres). We request Monitoring Plan measures and indicators that track GTR-220 design techniques where uses in project design, reporting on the specific techniques (written and photographs supporting the design features), and post-treatment effectiveness evaluations for the first 5 years to demonstrate compliance. Review every 5 years and use a threshold response of more training and oversight if the prescriptions and general heterogeneity features are not reliably met at the project level.
13. Initiate a monitoring and telemetry study so as to locate and protect marten natal and maternal dens with a 100 ac buffer and more protective standards for canopy reduction near dens and rest sites, including shrub enhancement, meadow restoration and an assessment of uncharacteristic predation risks, limits on further fragmentation in denning, resting and travel-ways, a noise pollution assessment and road density-related impacts.

14. Utilized similar monitoring techniques as done elsewhere, on the LTBMU to monitoring presence/absence for 2 years (track plates, scat-sniffing location dogs, baited camera stations) prior to treatment implementation. Limit impacts and degradation in high use areas.
15. Adopt a monitoring and adaptive management program that has clear thresholds and triggers to monitor the effects of treatments on marten occupancy and reproduction with an annual review of status. Complete a scientifically accurate accounting of impacts from the draft proposed plan on marten habitat, comparing it to the habitat corridor system discussed above.

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