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Date: **MAY 06 2019**

CERTIFIED-RETURN
RECEIPT REQUESTED

Dear Objectors and Interested Persons:

As the reviewing officer for the Inyo National Forest Land Management Plan revision process, this is my written response to the objections filed on the draft Record of Decision (ROD), Revised Land Management Plan (Revised Plan), and Final Environmental Impact Statement (FEIS), as required by 36 CFR 218.26(b). The responsible official for this decision is Inyo National Forest Supervisor Tammy Randall-Parker. The Legal Notice of the objection period for the Revised Plan was published on August 4, 2018, initiating a 60-day objection filing period. I received 22 timely objections. I also received 19 requests from eligible interested persons. The pre-decisional objection process allows the responsible official, reviewing officer, the objectors and interested persons to have the opportunity to work collaboratively to address concerns prior to the responsible official approving the Revised Plan. In the interest of facilitating this process, I held a resolution meeting with the Inyo National Forest, objectors, and interested persons on February 19, 20, and 21, 2019. Deputy Regional Forester Jennifer Eberlien also attended that meeting to lead the dialogue on recreation related issues. During that meeting, we made several commitments to objectors and interested persons. The outcomes of those commitments are reported below.

Also, during that meeting, objectors and interested persons expressed interest in working collaboratively towards resolution on several specific topics. These working groups spent time over the following month working towards resolution on these topics. The outcomes of those working groups are also reported below.

As part of the objection review process, the Forest Service Pacific Southwest Regional Office convened a review team of resource managers and specialists to review the Revised Plan, FEIS and ROD, and associated project record, related to the issues objectors brought forward in their objection letters. The review team was composed of Regional Office staff as well as staff from Forests throughout the region. The outcomes of that review are included in the attachment to this letter.

REVIEWING OFFICER COMMITMENTS

During the resolution meeting, the following commitments were made:

- Clarify Table 3 on pg. 18 of the Revised Plan regarding snags to explain that it relates to the landscape scale, and more variability above and below that range would occur at the stand or patch scale.



- Clarify that the Revised Plan allows for mixed severity outcomes, including high severity, from prescribed fire.
- Clarify that there is no limit or cap to the number of prescribed burn acres allowed per year.
- Consider the objector requested remedies for willow flycatcher and rare plant surveys.
- Include a timeline for Subpart C activities in the Revised Plan.
- Discuss with objectors how to address Winter Existing Use map.
- Correct the San Joaquin River wild and scenic river mapping error, and list white water boating as an ORV for the San Joaquin River.
- Remove the following statements from the record: “fixed anchors are not allowed in wilderness,” “the majority of climbers use fixed anchors,” and “wilderness recommendations in the draft plan... would only prohibit the potential for developing future climbing routes that use fixed anchors.”
- Review wilderness boundaries for powerlines and other infrastructure concerns.
- Review where authorized roads intersect with recommended wilderness boundaries.
- Reconsider 7 potential recommended wilderness polygons in Mono County to review rationale for not including in Alternative B-modified.
- Clarify the bighorn sheep suitability standard (SPEC-SHP-DC 02) in the revised Forest Plan to allow for mitigations of disease transmission risk.
- Consider outcomes of the objector working groups.

OBJECTOR WORKING GROUPS OUTCOMES

In response to discussions that occurred during the resolution meeting, working groups consisting of multiple objectors were convened on the following topics: roads and fire interactions, vegetation management, sage grouse perch deterrents, Pacific Crest Trail plan component language, recommended wilderness boundaries, management activities within recommended wilderness (guzzlers and associated maintenance), and pack goats disease transmission mitigations. Several working groups were able to find common ground and come to agreement, while others were able to find common ground on a few items related to their tasks and not on others. After reviewing the outcomes of those working groups, I have decided to incorporate some of the suggestions with some minor changes. Some objectors involved in the working groups that could not find common ground sent separate personal input. That input will be considered by the Responsible Official, but is not addressed here.

The outcomes that we have decided to incorporate with minor changes are:

The Forest will consider incorporating language into the Revised Plan that addresses the request for mitigation in exchange for the requirement to install predator perch deterrents on utility infrastructure in bi-state sage grouse habitat in response to the outcome of the ‘sage grouse perch deterrents’ group. This group also suggested some language related to protection of sage grouse nesting and brood rearing habitat. The Forest will consider incorporating language in response to that suggestion.

The Forest will make a minor adjustment to the Piper Mountain Recommended Wilderness boundary to exclude a wildlife guzzler and the access road to it as suggested by the 'recommended wilderness boundaries' group.

The Forest will consider incorporating the following suggested changes to the TIMB-FW-DC 03 plan component suggested by the 'timber harvest, forest products, complex early seral habitat, and carbon sequestration' group: *Salvage of dead and dying trees captures ~~as much of some of~~ the economic value ~~and carbon storage capacity of the wood as possible~~ while retaining key features in quantities that provide for wildlife habitat, soil productivity, and ecosystem functions.*

CONCLUSION

With the commitments made in the resolution meeting, and the instructions and suggestions in the attached document, I made a reasonable and appropriate effort to resolve the concerns that were brought forward by the objectors. With the instructions incorporated, the rationale for this Forest Plan revision will be clear and the analysis and findings will be well supported.

By copy of this letter, I am instructing Forest Supervisor Tammy Randall-Parker to proceed with issuance of a final ROD for this project once I have had a chance to review the implementation of the instructions identified in the attachment to this letter. I am recommending that the suggestions included in the attachment be incorporated into the project record, but as those suggestions were not required by law, regulation or policy, I am leaving the implementation of those to the discretion of the responsible official.

There will be no further review of this response by any other Forest Service or U.S. Department of Agriculture official as per 36 CFR 218.11(b)(2).

Sincerely,


BARNIE GYANT
Deputy Regional Forester
Reviewing Officer

Enclosures

cc: Erin Noesser, Tammy Randall-Parker, Mary Beth Hennessy, Alan Olson, Talitha Derksen

KEY REVIEW TEAM FINDINGS AND ASSOCIATED INSTRUCTIONS

The objection review team reviewed the objection letters, identified substantive issues in those letters, and reviewed the Inyo National Forest planning record related to those issues. The team reviewed the project record for the substantive issues brought up in the objection letters. The team found that the project record was adequate and complied with law, regulation and policy related to some issues, and they found the record to be lacking regarding other issues. The following is a summary of those findings and the associated instructions, organized by topic. I am directing the Responsible Official to complete the instructions listed below prior to finalizing the record of decision:

Best Available Scientific Information (BASI)

Finding: The review team found that the Forest, with a few exceptions, adequately documented what scientific information was determined to be the best available scientific information and how it informed the plan decision. The determinations were supported by the science consistency review that was undertaken by the Forest Service Pacific Southwest Research Station. However, for some of the information provided by objectors during the comment period or the objection letters, a determination of whether or not it should be considered BASI was not documented in the project record. The Forest Service Handbook directs the Responsible Official to determine whether such information submitted by the public is the BASI.

Instructions: For all of the scientific information submitted – in a timely manner – by the objectors, document whether or not it is determined to be the BASI per the 2012 planning rule. After considering this scientific information, ensure it is consistently addressed in the planning record. For issues where there is a lack of scientific consensus, contradictory BASI should also be briefly described. For decisions that are counter to the BASI, describe the other relevant factors that informed the plan decision. The BASI Summary Table should be reviewed to ensure that it captures the scientific references used in the project record, and the project record should be reviewed to ensure that it refers to the BASI documented in the BASI Summary Table. Make the BASI determination spreadsheet publicly available by posting it on the website, in addition to the BASI Summary Table.

Forest Vegetation Management

Finding: Appendix A of the FEIS and Appendix D of the Revised Plan consistently calculate the number of acres of land suitable for timber production; however, the Revised Plan and Draft ROD have different number for acres of land suitable for timber production. There is also inconsistency in the volume quantity, units of measure (MMCF versus MBF), and Product subtype (projected timber sale quantity vs. projected wood sale quantity) between the Revised Plan, Appendix D of the Revised Plan, and the language in the Draft ROD.

Instruction: Correct the discrepancy in acres of lands suitable for timber production between the Revised Plan, the ROD, Appendix A of the FEIS, and Appendix D of the Revised Plan. Also, ensure that the timber volume, subtype and units are consistent through all documents.

Finding: While a substantial amount of scientific information is referenced on the topics of old forest, large trees, tree densities, historic conditions, present conditions, and diameter limits, the project record is not clear why the 30 inch diameter limit was chosen and applied forest-wide given that the supporting “Old Forest Supplemental Report” provides multiple ranges for defining old forest for different parts of the region, different species, and different forest types.

Instruction: The project record should describe, with scientific references, why the 30 inch diameter limit (TERR-FW-STD 01) was established.

Finding: The Forest clarified that the large snag desired conditions in Table 3 of the revised Plan reflect desired conditions at the landscape scale, with conditions at the stand scale varying beyond that range; however, this is not clear in the table.

Instruction: Clarify Table 3 (Revised Plan, pg. 18) to address snags at the stand and patch scale.

Finding: Some required plan content (required by the 2012 planning rule) is only found in Appendix D of the Revised Plan, and it is not clear that Appendix D is incorporated by reference in the body of the Revised Plan.

Instruction: Clarify that all elements of the required plan content for the planned timber sale program in Appendix D are a part of the plan. Clarify in the ROD that all elements of the Plan are part of the decision.

Finding: Vegetation type desired conditions described in the plan are specific to early seral forest, rather than complex early seral forest, making it unclear how the specific-guidance for retention of 10% of Complex Early Seral Forest (CESF) in burned areas (TERR-CES-GDL 05) relates to the vegetation type desired conditions described in the plan.

Instruction: Clarify how the fire specific-guidance for retention of 10% of CESF (TERR-CES-GDL 05) relates to the early seral forest category for vegetation type desired conditions (Revised Plan, Table 1, pg. 18).

Finding: The FEIS analysis indicates that CESF will be represented at levels within NRV or slightly exceeding NRV for all alternatives, and that current amount of CESF is within or exceeds NRV; however, the record does not address directly how the retention of 10% of CESF required by TERR-CES-GDL 05 provides for wildlife habitat, soil productivity, and ecosystem functions, or for species that rely on CESF.

Instruction: Clarify, pointing to science, how retaining complex early seral forests according to TERR-CES-GDL 05 provides for wildlife habitat, soil productivity, and ecosystem function.

Instruction: Provide the rationale for the amount of complex early seral forest directed for retention in TERR-CES-GDL 05 and tie it to the best available science and the NRV of complex early seral forest.

Finding: In considering TERR-CES-GDL-04 in the context of the other four guidelines (TERR-CES-GDL 01, 02, 03, and 05), it is clear that ecological benefits of retaining dead trees must be

balanced with economic value as well as ecological risks that dead trees may represent, such as fuel loads; however, the intent of TERR-CES-GDL 04 is unclear to the public.

Instruction: Reword TERR-CES-GDL 04 to clarify that timber value is balanced against other considerations.

Fire and Fuels Reduction

Finding: The FEIS analysis and rationale appear to support the inclusion of TERR-FW-OBJ 02 and TERR-MONT-DC 02; however, the ROD lacks support for these plan components by lacking a discussion of the departure from the historic fire regime to a higher likelihood of high severity fire.

Instruction: To support TERR-FW-OBJ 02 and TERR-MONT-DC 02 in the Revised Plan, address in the ROD the departure from historic fire regime to a higher likelihood of high severity fire in large patches, and that this condition is not consistent with desired conditions.

Finding: The Scenery section does discuss short term and long term impacts of vegetation and fuels management activities; however, it does not define short term and long term.

Instruction: Provide the definition of short term and long term impacts of fuels reduction treatments in the Scenery section of the FEIS.

Water, Riparian, Meadow, Fen, Soil

Finding: The language for MA-RCA-STD 01 appears to not allow for flexibility or exceptions. It is not clear how utility corridor vegetation removal or other utility corridor activities would or would not affect water temperature and thus if they would be prohibited by the standard.

Instruction: Clarify that MA-RCA-STD 01 (the water temperature standard) does not prohibit some vegetation removal or required safety actions for utility corridor management.

Instruction: Include plan language to recognize that utility companies need to adhere to other laws and policies relevant to their infrastructure management.

Finding: The FEIS finds that Alternative B-modified is expected to improve vegetation and watershed condition trends, and the Forest is directed to rest or remove livestock in special aquatic habitats when a declining trend is observed; however, the current plan Standard 117 could be interpreted as not allowing any use/disturbance within special aquatic features that would rate as anything less than Properly Functioning. The Forest changed the language in the Revised Plan (MA-RCA-STD 13) and make the argument in the record that the changed language simply clarifies the intent of the standard; however, the rationale to support that statement is lacking.

Instruction: Clarify in the record why the wording of MA-RCA-STD 13 was changed in the revised plan from Standard 117 in the current plan, and how the changed language does not impart a different/lower level of protection for special aquatic features.

Finding: Transmission lines/utilities were not identified as a need to change from the previous plan. The 1988 Forest Plan language was carried forward into the Revised Plan (all alternatives)

as guidelines; however, the plan component LAND-FW-GDL 02 requires utility lines to be buried and lacks clarity and flexibility concerning impacts to resources.

Instruction: Clarify that the intent behind guideline LAND-FW-GDL 02 is to have the least amount of impact to resources including soil temperature and habitat, and not create greater impacts.

Finding: The project record lacks a professional or scientific rationale for the inclusion of the 20% limitation on fen disturbance.

Instruction: Describe the rationale for the new 20% fen disturbance limitation in the record. Clarify why this disturbance limitation is not different from current management, and include the rationale, based on science, for this disturbance limitation.

Threatened, Endangered and Sensitive Species and Species of Conservation Concern

Finding: The ROD states that the plan components meet the diversity requirement, but it does not appear to meet the planning rule requirement to provide an explanation of how the plan meets the diversity requirements of 36 CFR § 219.9.

Instruction: Include a summary in the ROD that provides an explanation of how the plan components meet the diversity requirements.

Finding: It is not clear in the project record why the Destination Recreation Area is exempt from the California Spotted Owl plan components.

Instruction: Unless a clear rationale can be provided, remove the Destination Recreation Area exemption language.

Finding: The record lacks scientific rationale for why 3 years of surveys are sufficient to determine that PACs are no longer occupied (SPEC-CSO-GDL 02).

Instruction: Clarify the record related to removing PACs.

Finding: A May 2018 court ruling that found that the US Fish and Wildlife Service reversed course when deciding not to list the bi-state sage grouse under ESA, is not addressed in the project record.

Instruction: New information related to the bi-state sage grouse court ruling should be incorporated into the project record.

Finding: Much of the management direction from the lengthy Humboldt-Toiyabe National Forest Land Management Plan Amendment related to sage grouse are reflected in the Revised Inyo Plan, but several standards and guidelines were not brought forward into the Revised Plan. While the record states that the revised plan is consistent with the Humboldt-Toiyabe Amendment regarding sage grouse, some Humboldt-Toiyabe Amendment plan components were not included, and there is a lack of rationale for which plan components were and were not included.

Instruction: Clarify in the record how the sage grouse related plan components from the Humboldt-Toiyabe Amendment were incorporated, or were not incorporated, and why.

Pack Goat Use

Finding: Forest Order No. 05-04-50-18-05 (partial temporary Forest closure to pack goats) was executed separately from this forest plan revision process, and pursuant to 36 CFR 220.6(d)(1), a project record and decision memo are not required for such orders. Because this closure was not executed under this planning process, it was not required that this planning process provide a public comment period for the closure order. The forest closure order is temporary, and set to end on July 30, 2020. The Forest planning record lacks clarity concerning this order.

Instruction: Clarify in the FEIS the history of Forest Order No. 05-04-50-18-05 and that the pack goat use restrictions pursuant to this Order were executed separately from this planning process.

Finding: The bighorn sheep suitability plan component (SPEC-SHP-SUIT) reduces flexibility in managing pack goat use on the Forest.

Instruction: Consider modifying the bighorn sheep suitability standard (SPEC-SHP-DC 02) in the revised Forest Plan to allow for mitigations of disease transmission risk.

Pacific Crest Trail

Finding: An extensive review of the record revealed no law, regulation or policy violations related to the proposed management of the Pacific Crest National Scenic Trail; however, an objector concerned about the management of the Pacific Crest National Scenic Trail correctly noted that the terminology used in the scenery desired condition (SCEN-FW-DC 03) deviates from the glossary definition for scenic integrity and from the terminology used in the Landscape Aesthetics Handbook's, so it is unclear how the "places people visit for high quality viewing experiences" would be determined.

Instruction: Clarify how and/or when "places people visit for high quality viewing experiences" is determined. Ensure that terminology in the phrase is consistent with that used in Landscape Aesthetics: A Handbook for Scenery Management (USDA, 1995).

Winter Recreation

Finding: There is no requirement in either the rule or directives to identify winter recreation opportunity spectrum. The planning rule (36 CFR 219.10(b)(i)) requires the plan to provide for "Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air." There is no requirement specific to winter recreation. The definitions of recreation opportunity and recreation setting in 36 CFR 219.19 do not specify season. The maps in the record that depict winter ROS are actually current winter recreation opportunities, and not desired conditions; however, there are inconsistencies in the record (FEIS, ROD, and revised Plan) regarding the winter ROS map and whether it reflects existing conditions or desired conditions.

Instruction: Reconsider the inclusion of winter ROS in the Revised Plan.

Wild and Scenic River

Finding: The FEIS does not demonstrate that all public comments related to ORVs were considered.

Instruction: Ensure that ORVs provided in public comments are addressed in FEIS tables.

Finding: The WSR evaluation did not consider the river segments that cross City of Los Angeles Land.

Instruction: Evaluate river segments that cross the City of Los Angeles land, and document this evaluation in the WSR evaluation and in the FEIS.

Finding: The FEIS does not address/consider an historic ORV for those segments restored as a result of the Mono Lake Public Land Trust Decision or the nationally significant scenery associated with the Mono Lake Scenic Area.

Instruction: Consider as ORVs those segments restored as a result of the Mono Lake Public Land Trust Decision and identified to have nationally significant scenery within the Mono Lake Scenic Area; and declare these segments eligible.

Finding: FSH 1909.12, 82.62 allows for rivers to be divided into segments having differing classifications when the levels of human use and activity create different degrees of development. The WSR inventory and Revised Plan classified the segment of O’Harrel Canyon Creek as ‘recreational’; however, the upper 2 miles of the stream are within the Glass Mountain IRA and should be evaluated for wild classification.

Instruction: Clarify if the two upper miles of the eligible segment of O’Harrel Canyon Creek was considered and determined ineligible for classification as wild. If not, consider modifying the classification.

Finding: Language included in the draft ROD (pg. 20) confuses the requirements for WSR **eligibility** evaluation with WSR **suitability** evaluation. Eligibility is not subject to further review and possible modification.

Instruction: Remove or edit the language in the Draft Record of Decision, (Wild and Scenic Rivers, p. 20) related to “further review and possible modification by the Chief of the Forest Service, Secretary of Agriculture, or the President of the United States” to be consistent with policy.

Recommended Wilderness

Finding: The Forest has developed a plan that is consistent with the Multiple Use Sustained Yield Act, as not every use is required to be available on every acre. The Forest strove to find a balance of active management options, recreation opportunities and ecosystem protections.

Finding: The Inventory, Evaluation, Analysis and Recommendation process undertaken is consistent with the 2012 planning rule. However, there is a lack of clarity and consistency throughout the wilderness evaluation, analysis, and recommendation process. There appears to

be inconsistent or perhaps incomplete application of agency policy FSH 1909.12 Ch. 70, particularly related to the evaluation criteria and how the analysis led to the decision.

Instruction: Update the FEIS Appendix B wilderness evaluation where there is inconsistent application of information. Ensure the evaluation looks at the same suite of information consistently across all polygons. Review and modify the evaluation and analysis sections of the FEIS Appendix B to ensure that:

- existing activities and improvements are brought up in the context of impacts to apparent naturalness (or other wilderness characteristics if applicable);
- sights and sounds from outside the evaluated area are described in terms of their pervasiveness and influence on a visitor's opportunity for solitude;
- there is consistency in how ecological representation is considered;

Update the ROD as necessary in response to changes to the evaluation.

Finding: The Inventory, Evaluation, Analysis and Recommendation process undertaken is consistent with the 2012 planning rule. However, the rationale in the draft ROD to include the four polygons as recommended wilderness versus the other polygons is not clear.

Instruction: Clarify in the ROD how the responsible official considered the analysis and input received from the public and how that resulted in the decision to recommend the four polygons versus those not recommend.

Finding: The FEIS appropriately analyzed effects of recommended wilderness; however, there appears to be inconsistency between what the revised plan says in terms of activities allowed within recommended wilderness and the analysis of effects in the FEIS.

Instruction: Clarify what projects, activities, and uses are allowed within recommended wilderness under the revised plan, including how they beneficially and/or adversely impact at-risk species and ecological integrity.

Finding: The record is inconsistent and lacks clarity concerning whether fixed anchors are allowed within recommended wilderness.

Instruction: Ensure consistency in the record related to the use of fixed anchors within recommended wilderness and clarify that they would not be prohibited.

SUGGESTIONS FOR THE RESPONSIBLE OFFICIAL

In response to objectors' concerns, I am suggesting the Responsible Official consider completing the following items:

Corrections to the Record

1. Correct the date of the Carbon supplemental report included in the record (cited as a 2017 document, but has a 2016 date).
2. Correct the title of the carbon supplemental report (currently titled "Name of Project").
3. Include an IRA map in Appendix A of the revised plan.

Clarify Terminology

1. Include a definition of “electronic sites” in the Final Plan glossary. Alternatively, provide greater clarity on the use of the term in LAND-FW-GDL-03.
2. The FEIS could be strengthened by including definitions and/or clarifying use of the terms road, trail, route and area.
3. In order to address the objector’s issue with the vagueness of the term “overstocked”, define overstocking (i.e. stocking that is outside of desired conditions for a particular forest type or location).

Forest Vegetation Management

4. Consider modifying TIMB-FW-DC-03 language as suggested by the objector or in some other way to clarify that salvage is not required when fires burn within desired conditions.
5. Clarify how plan components that discourage salvage logging in areas burned by moderate severity fire, or patches of high severity fire within NRV, that are within desired conditions, would be balanced against plan components that encourage recovering value from fire-killed timber.

Water, Meadows, Fens, Soils

1. Clarify WTR-FW-STD-01 to specify exactly what from the other documents (BMPs) will be used as the management direction.
2. Clarify that rest of a grazing allotment is a potential management tool if conditions are not Properly Functioning, or Functioning At Risk with an upward trend.

Sage Grouse

3. Consider referring to FSM 2100, Chapter 2150, as relevant policy for integrated pest management approach.
4. Clarify in the record how the revised Plan direction sufficiently protects sage grouse wintering habitat on the Inyo NF, to be consistent with the discretionary Conservation Recommendations provided in the Revised Plan Programmatic Biological Opinion.

Species of Conservation Concern

5. Consider including the list of species of conservation concern in the plan. If a list is provided, ensure consistency between what is put into the plan and what is in the response to comment and ensure that the record explains the process for revising the list with the clarification that no plan amendment would be required.

Pacific Crest Trail

6. Clarify the basis for using 5 feet as a proxy for the observer in identifying the foreground under the Scenery Management System.
7. Clarify in the FEIS that NEPA does not require a full revised Plan be developed for each alternative in order to compare effects between alternatives. There is sufficient information in the alternative descriptions to compare indicators between the alternatives.

8. Consider removing the FEIS statement regarding “nature and purposes” of the Pacific Crest National Scenic Trail, as it is not necessary and reduces clarity concerning PCT requirements.

Recommended Wilderness

9. Clarify in the FEIS the following items related to guzzlers in recommended wilderness areas: validate guzzler description on p. 50; ensure the FEIS is properly referencing the appropriate plan components; clarify the impacts (who is responsible for maintenance, impacts of no new guzzlers, potential future designation of wilderness and associated guzzler removal).
10. Clarify in the ROD and FEIS if all of the inventory and evaluation areas that are included in Alternative C but not in Alternative B-modified would be managed as Challenging Backroad Recreation Areas. If they are not all going to be managed as such, clarify how those areas would be managed.

Travel Management

11. Clarify that designations of roads, trails and areas (in particular, cross-country OHV use in the Poleta area) made in the 2009 travel management decision will not change in the Revised Plan.

Wild and Scenic Rivers

12. Add the Wild and Scenic Rivers Act to the list of “Findings Required by Other Laws and Relevant Directions” section of the Draft ROD (P 31-35).