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VIA ELECTRONIC MAIL

February 7, 2020

Randy Moore, Regional Forester
USDA Forest Service, Pacific Southwest Region
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Re: Objection to the Draft ROD and Final Environmental Impact Statement/Environmental Impact Report for the Butterfield and Sentinel Limestone Quarries Expansion Project.

Dear Regional Forester Moore:

Thank you for the U.S. Forest Service's ("USFS") consideration of previous comments from the Center for Biological Diversity ("Center"), the California Native Plant Society ("CNPS") and the San Geronio Chapter of the Sierra Club ("Sierra Club"), collectively the Objecting Parties, on the Draft Environmental Impact Statement/Environmental Impact Report for the Butterfield and Sentinel Limestone Quarries Expansion Project in the San Bernardino National Forest ("SBNF") and for clarifying issues and including some of our requests in the Final EIS.

The Objecting Parties have reviewed the Final EIS and the draft Record of Decision ("draft ROD") issued by USFS at the end of December, 2019. Pursuant to Forest Service regulations at 36 C.F.R. § 218 *et seq.*, the Objecting Parties respectfully submit this timely objection for the reasons discussed below.

STANDING TO FILE OBJECTION

The Center for Biological Diversity is a non-profit conservation organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has more than 1.7 members and supporters throughout the United States, including residents in southern California and members who visit and utilize the SBNF lands in the area of the proposed mining expansion. The Center has worked for many years to protect imperiled plants and wildlife (including the Carbonate Endemic plants and the Cushenbury herd of desert bighorn sheep), the habitat they depend on, open space, air and water quality and participated in the planning process for the SBNF Land Management Plan ("LMP").

The California Native Plant Society ("CNPS") is a non-profit environmental organization with 10,000 members in 35 Chapters across California and Baja California, MX. CNPS' mission is to protect California's native plant heritage and preserve it for future generations through application of science, research, education, and conservation. CNPS works closely with decision-makers in Arizona · California · Colorado · Florida · N. Carolina · New York · Oregon · Virginia · Washington, DC · La Paz,

makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices. CNPS was a participant in crafting the Carbonate Habitat Management Strategy (CHMS) that was finalized in 2003 and subsequently adopted by the SBNF in their LMP.

The Sierra Club is a national non-profit organization of with over 3 million members and supporters dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Many Sierra Club members reside in California and the San Gorgonio Chapter of the Sierra Club focuses on protecting lands and resources within the San Bernardino National Forest and in San Bernardino County.

The Objecting Parties submitted joint comments on the Draft EIS with references on August 27, 2018. Those comments and references are incorporated herein pursuant to 36 CFR §218.8(b)(4). Accordingly, the Objecting Parties have standing to bring this appeal pursuant to 36 CFR § 218.5.

Objector Contact or “Lead Objector”:

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REQUEST FOR RESOLUTION MEETING

Forest Service regulations provide that an objector may request to meet with the Responsible Official to discuss issues raised in this objection and potential resolution. Pursuant to 36 C.F.R. § 218.11(a), the Objecting Parties respectfully request to meet with the Regional Forester to discuss and attempt to resolve these objection points. Please contact the Objector Contact listed above to coordinate the meeting.

STATEMENT OF ISSUES AND OBJECTIONS

While the Forest Service's draft Record of Decision (“ROD”) to has improved from the initial proposal, the draft ROD is still inadequate in several respects. All of these issues and objections made herein were raised in our previous comment letters, as detailed below.

Issue #1: The proposed decision does not comply with the CHMS although the LMP requires implementation of the CHMS.

Objection #1: Because the CHMS Furnace Unit has not been “activated,” the proposed decision cannot lawfully allow any mining impacts in the Furnace Unit. To activate the Furnace Unit, the CHMS requires Initial Furnace Transactions and conveyance of Stage 1 Priority Areas to the Habitat Reserve; because those actions have not been completed no loss of habitat for Carbonate Plants can be lawfully authorized in the Furnace Unit. In addition, the proposed direct mining impact to 4.25 acres in the Stage 1 Priority Area may undermine the ability of the CHMS to reach its goals

The Objecting Parties previously commented on this issue (August 2018, page 4-7). The CHMS requires (at pg. 12):

Stage 1 Priority Areas. No loss of habitat for Carbonate Plants may occur under the CHMS within any Administrative Unit until most of the valuable Carbonate Plant habitat in the “Stage 1 Priority Areas” within such Unit (see Map 3 in Appendix I) has been added to the Habitat Reserve (see Section 9(b)(i)). Such habitat in the Stage 1 Priority Areas plus the portion of the Initial Habitat Reserve within each Unit provide a solid base of conservation within each Administrative Unit *that must be part of the Reserve before any loss of Carbonate Plants can occur within that Unit under the CHMS.* [emphasis original]

Neither the FEIS nor the draft ROD clarifies the amount of habitat that has been added to the Furnace Unit’s Stage 1 Priority Area to date, if any.

Recommendations to Resolve Objection #1:

- The Forest Service must confirm that the Furnace Unit’s Stage 1 Priority Area has been activated prior to adopting the proposed decision that would allow mine expansion in the Furnace Unit. The Forest Service must ensure that the donation of the land in fee and relinquishment of unpatented mining claims including the withdrawal from mineral location and entry under U.S. mining laws needed to activate the Furnace Unit is completed prior to any disturbance and that the donations/relinquishments are all in the Furnace Unit where the disturbance is proposed to occur (not the Helendale Unit).
- In addition to delaying any decision until the unit is activated, the Forest Service should either:
 - o reject development in 4.25 acres of Stage 1 Priority Area in order to support the CHMS’ mitigation strategy; or
 - o increase the required mitigation for mining in the Stage 1 Priority area (currently just 3.4:1) to 10:1 in order to assure that “most of” the valuable Carbonate Plant habitat in the Furnace Unit’s Stage 1 Priority Areas is added as part of the Unit being “activated”.

Compliance with the SBNF LMP is required. *See, e.g.*, 16 U.S.C § 1604(i); *Greater Yellowstone Coalition v. Lewis*, 628 F.3d 1143, 1149 (9th Cir. 2010), amended, 2011 U.S. App. LEXIS 1640 (9th Cir. 2011); *Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 961 (9th Cir. 2005). . The recommendations to resolve Objection #1 would require the Forest Service to comply with the Record of Decision for the San Bernardino National Forest, Forest Plan Record of Decision (2006) which states:

“This Record of Decision includes my decision to implement the Carbonate Habitat Management Strategy. This strategy will be implemented where it applies on the San Bernardino National Forest and will provide for ongoing mining of carbonate rock, while also providing for the conservation and recovery of four threatened and endangered plant species that are associated with carbonate soils.”

(LMP ROD at 10). Thus, compliance with the CHMS is required by the LMP and compliance with the CHMS is needed in addition to the Forest Service’s formal Section 7 ESA consultation.

The San Bernardino National Forest Land Management Plan - Part 2 San Bernardino National Forest Strategy (LMP) states:

“The emphasis will be consistent with the requirements of the Carbonate Habitat Management Strategy to sustain mineral production by providing refugia for resource protection (ME 1 - Minerals Management, and Lands 4 - Mineral Withdrawals). Staff expect to increase the carbonate plant habitat reserve by approximately 2,600 acres through land acquisition or exchange (Lands 1 - Land Ownership Adjustment), allowing for future mining in other areas”

(LMP at 27-28.) The LMP mining section also recognizes the CHMS implementation as foundational stating:

“The Minerals and Energy Program will emphasize processing and administration of exploration and development proposals and operations while providing adequate protection of surface resources, wildlife habitat, scenery and recreation settings (ME 1 - Minerals Management). Permits, leases, and Plans of Operation will require that adverse environmental effects are minimized, or mitigated, and that mined lands are reclaimed in a timely manner to regain surface production and use. Reasonable access for approved mineral operations will be allowed. The emphasis will be consistent with the requirements of the Carbonate Habitat Management Strategy to sustain mineral production by providing refugia for resource protection (ME 1 - Minerals Management, and Lands 4 - Mineral Withdrawals). Staff expect to increase the carbonate plant habitat reserve by approximately 2,600 acres through land acquisition or exchange (Lands 1 - Land Ownership Adjustment), allowing for future mining in other areas.”

(LMP at 37.)

In addition, the LMP states:

“Carbonate habitats are protected from mining impacts in perpetuity within carbonate habitat reserves dedicated and managed as described in the Carbonate Habitat Management Strategy. The Carbonate Habitat Reserve is managed to allow public uses that are compatible with the conservation of the listed carbonate plants. Areas disturbed through past activity are restored.”

(LMP at 56-57), and

“Maintenance of habitat for threatened, endangered, proposed, candidate, and sensitive species and management of habitat linkages will be emphasized in all management activities. Management is expected to center on implementation of the Carbonate Habitat Management Strategy to continue mining while preserving and managing habitat for the four federally listed plants.”

(LMP at 57.)

In the Desert Rim Place, the LMP, states:

“Carbonate and pebble plain habitat supporting federally listed plant species is present. A large area of critical habitat is designated for the recovery of carbonate endemic plants. An intensive collaborative effort led to the development of the Carbonate Habitat Management Strategy (CHMS) in 2003. The strategy is designed to provide long-term protection for the carbonate endemic plants and also provide for continued mining.”

(LMP at 63), and

“Carbonate habitats are protected from mining impacts in perpetuity within carbonate habitat reserves dedicated and managed as described in the Carbonate Habitat Management Strategy. The Carbonate Habitat Reserve is managed to allow public uses that are compatible with the conservation of the listed carbonate plants. Within the Carbonate Habitat Management Area, carbonate plants are likely to persist indefinitely by managing and maintaining geomorphic and ecological processes of the landscape in large, well-placed blocks of habitat. Destruction or modification of critical habitat is avoided. Listed species are recovered and delisted. Future listings are not needed. Areas disturbed through past activity are restored.”

(LMP at 64) and later on that same page:

“Management is expected to center on implementation of the Carbonate Habitat Management Strategy and to continue mining while preserving and managing habitat for the four federally listed plants.”

The LMP’s **Forest-specific Design Criteria** also requires:

SBNF S3 - In carbonate habitat, mine restoration prescriptions shall include the success

criteria and provisions for effectiveness monitoring and reporting as described in the Carbonate Habitat Management Strategy (Big Bear Back Country and Desert Rim Places or other Places as needed).

(LMP at 99.)

The LMP describes the carbonate habitat and the desired condition for the Carbonate Habitat Reserve as:

“**Carbonate habitat** is located on the northern and eastern flanks of the San Bernardino National Forest. The 48,670 acres of carbonate soils have developed from outcrops of limestone and dolomite bedrock. Like serpentine and gabbro soils, carbonate soils are low in nutrients and support an assortment of endemic plant species. Seventeen at risk species are found on this habitat. The principal threat to carbonate habitats has been mining for high-grade carbonate deposits. In fact, almost all of the habitat of the listed threatened and endangered carbonate endemic plants is under mining claim.

Carbonate habitats are highly sensitive to ground disturbance and vegetation removal. Once disturbed, vegetation recovery is exceedingly slow. Although unauthorized off-road driving is posing an increasing threat to these disturbance-sensitive areas, mining remains the primary threat to this habitat. An intensive collaborative effort led to the development of the Carbonate Habitat Management Strategy (CHMS) in 2003. The strategy is designed to provide long-term protection for the carbonate endemic plants and also provide for continued mining.

The desired condition is for the Carbonate Habitat Reserve (dedicated and managed as described in the Carbonate Habitat Management Strategy) to be protected in perpetuity from mining impacts. The Carbonate Habitat Reserve will be managed to allow public uses that are compatible with the conservation of the listed carbonate plants. Within the Carbonate Habitat Management Area, carbonate plants are likely to persist indefinitely by managing and maintaining geomorphic and ecological processes of the landscape in large, well-placed blocks of habitat. Destruction or modification of critical habitat is avoided. Listed species are recovered and delisted. Future listings are not needed. Areas disturbed through past activity are restored.

Outcome Evaluation questions: Is carbonate habitat being conserved over the long-term through the implementation of the Carbonate Habitat Management Strategy (CHMS) actions?”

(LMP at 101.) Under the draft ROD for this project the answer to the outcome evaluation question would be “no”, which also shows that the draft ROD is inconsistent with the LMP. In contrast, the recommendations to resolve Objection #1 would ensure compliance with the CHMS and the LMP.

Issue #2: North Slope San Bernardino Mountains Bighorn Sheep Conservation Strategy (Appendix D)

Objection #2: The North Slope San Bernardino Mountains Bighorn Sheep Conservation Strategy fails to address key conservation concerns and **Mitigation Measure Bio-16** puts bighorn at risk and therefore undermines, rather than supports, conservation.

The Objecting Parties previously commented on issues associated Bio-19 and -20 regarding the draft North Slope Bighorn Sheep Conservation Strategy (August 2018, page 9-10). While we appreciate that a final North Slope Bighorn Sheep Conservation Strategy (“BHSCS”) is provided in Appendix D, some of our key concerns are not adequately addressed including:

- **Mitigation Measure Bio-16** of the FEIS and the BHSCS requires that watering of roads, for dust control purposes, continue to overspray the adjacent roadside, resulting in enhanced roadside vegetation growth and that this artificial vegetation growth be used as a mitigation measure for foraging impacts to bighorn sheep habitat. Our concern was and remains attracting bighorn into harm’s way on the road as the bighorn access the lush road-side vegetation. Response 5-13 states “there have been no observed mortalities of bighorn sheep on the Crystal Creek Haul Road or Butterfield-Sentinel Quarries. Therefore, it was determined that the benefit of increased foraging habitat outweighed the potential risks associated with the habitat being close to the haul road” (at pg.2-74). However, the BHSCS itself documents bighorn mortality from roads and increasing frequency of groups of bighorns crossing Highway 18 (at pg.9). While adequate forage is a crucial component for a healthy Cushenbury herd, relying on artificially watered plants on the road side to offset habitat impacts indisputably puts bighorn in harm’s way and should not be continued. Other mitigation actions should be adopted that will provide additional forage without increasing risks to bighorn, for example, acquiring and relinquishing grazing privileges on the Rattlesnake allotment within the Cushenbury BHS home range east of Highway 18.
- Other concerns about the BHSCS include lack adequate funding for all needed conservation actions. The BHSCS provides information missing from the draft on funding in Appendix A of Appendix D. It relies on a non-wasting endowment of \$600,000 with management actions to be used solely for translocation of bighorn every 8-9 years in order to try to keep the herd viable. While translocation may be a necessary tool to maintain a viable herd, the BHSCS fails to fully address many of the primary causes of mortality and measures to minimize those threats. Among the needed additional conservation measures are the following:
 - o A public education campaign about the threats domestic stock (sheep and goats) and feral and/or domestic dogs pose to bighorn and development and implementation an action plan to deal with those sources of mortality when they arise;
 - o Assessing the need for additional wildlife drinkers accessible to wildlife including bighorn;
 - o A public education campaign about the threats that balloon litter poses to this bighorn herd and annual systematic clean-up of balloon litter in the herd area;
 - o Increased monitoring of bighorn by CDFW and USFS including additional GPS collars for monitoring the herd, a monitoring plan to determine lambing areas and

other important resource areas for the Cushenbury herd in order to safeguard those areas from future development.

These additional needed actions to prevent “take” of the fully-protected desert bighorn and support recovery of the critically endangered Cushenbury herd will add additional costs that must be calculated and included in the non-wasting endowment.

Recommendations to Resolve Objection #2

- **Amend Mitigation Measure Bio-16** and the BHSCS to require: 1) that watering of roads for dust control purposes minimize overspray onto roadside vegetation; 2) prior activation of the Stage 1 Priority Areas for the Furnace Unit (which will also protect some existing foraging areas for the Cushenbury herd in the SBNF); and 3) mitigation for any mining impacts to Stage 1 Priority Areas of 10:1 at minimum.

In addition, we urge the Forest service to amend the BHSCS to include the following conservation actions:

- Identify foraging areas for the Cushenbury herd outside of the mining areas and propose these areas for protection under a future LMP amendment;
- Develop and implement a public education campaign about the threats domestic stock (sheep and goats), feral and/or domestic dogs, and balloon litter pose to bighorn;
- Develop and implement an action plan to deal with domestic stock (sheep and goats) and feral and/or domestic dogs, which are documented causes of bighorn mortality, when they arise;
- Assess the need for additional wildlife drinkers accessible to wildlife including bighorn;
- Fund and implement annual systematic clean-up of balloon litter in the herd area;
- Increase monitoring of bighorn by CDFW and USFS including additional GPS collars for monitoring the herd;
- Develop and implement a monitoring plan to determine lambing areas and other important resource areas for the Cushenbury herd. Once identified, propose these areas for protection under a future LMP amendment to safeguard those areas from future development; and
- Increase the non-wasting endowment to support the additional avoidance and recovery measures.

CONCLUSION

The draft ROD fails to require implementation of the Carbonate Habitat Management Strategy as adopted by the San Bernardino National Forest Land Management Plan Record of Decision as described above. The final North Slope Bighorn Sheep Conservation Strategy fails to include numerous actions that are needed to reduce mortalities and enhance persistence of the critically imperiled and fully protected Cushenbury herd of desert bighorn sheep.

The Objecting Parties look forward to working with the USFS throughout this objection process to resolve these objection points and craft a solution that benefits all parties involved, resulting in stronger protections for the imperiled Carbonate Endemic plants in the SBNF and the affected Bighorn Sheep populations.

Sincerely,



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