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Subject: Mike Berry/Neil Ray Outfitter Guide Temporary Special Use Proposal Scoping
Comments by Sequoia ForestKeeper (SFK) and Sierra Club (SC)

Thank you for the opportunity to comment on the proposed SUPs for the Kern River and Western Divide Ranger Districts, including the Giant Sequoia National Monument. The Forest Service is proposing to authorize two Special Use Permits (SUP) under a NEPA categorical exclusion (CE), 36 C.F.R. § 220.6(d)(8), for minor, short-term (1-year or less) special uses. The assumption made here is that there are no extraordinary circumstances that preclude use of this CE for the approval of two State-licensed outfitter guides, Mike Berry and Neil Ray.

Comments

1. Use of Dogs

Thank you for including the prohibition on the use of dogs for guide hunting. SFK and SC oppose the use of dogs for hunting, especially in hunting bears, gray fox, and bobcat in the Sequoia National Forest and Giant Sequoia National Monument and especially in the Southern Sierra Fisher Conservation Area.

The scoping notice states that “Each outfitter shall: ... not use dogs while conducting authorized services.” Any SUP and associated operating plan must also be clear that any clients/hunters who use the outfitter guide services of Mike Berry and Neil Ray should not be allowed to bring their own dogs while being guided.

2. Temporal and Geographic Scope of SUP

We believe that 50 days of permitted activities is excessive and the number of days for the use of these SUPs should be lowered.

In addition, the SUP and its operating plan should specifically state that hunting activities should stay away a certain number of miles from developed areas, not just prohibit hunting in the proscribed areas, including “wilderness areas; developed recreation sites and organizational camps; areas, roads, and trails closed to general public use; and non-National Forest System lands.”

For example, the Highway 190 corridor is posted from Moorehouse Springs to above Cedar Slope and then again up by Ponderosa. Any SUP and associated operating plan must ensure that any guided hunting activities are buffered from these and other proscribed areas by a safe distance. Moreover, the SUP must specifically prohibit hunting from vehicles or within so many feet of roads, including county, state and Forest Service roads.

3. Protection of Giant Sequoia National Monument (GSNM) Object of Interest is an Extraordinary Circumstance

Any SUP and associated operating plan for guide hunting must also ensure that the hunting activities will not damage, threaten, or destroy objects of interest. To ensure this, we believe that a full Environmental Assessment (EA) is necessary that would disclose information about which specific animals will be hunted and provide an analysis of how hunting will or will not threaten the viability of the hunted animals or other animals like the Pacific fisher. Both the issuance of SUPs in the GSNM and the potential effect on Pacific fisher are extraordinary circumstances that preclude the use of a CE.

Extraordinary circumstances prohibit the issuance of a SUP by CE. *See* 36 C.F.R. § 220.6(a). Here, the Forest Service must consider a listed resource condition in determining whether an extraordinary circumstance exists: “(i) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.” 36 C.F.R. § 220.6(b)(1)(i). The Pacific fisher is both a “species proposed for Federal listing” under the ESA and a “Forest Service sensitive species.” In addition, the Pacific fisher is an “object of interest” protected under the Giant Sequoia National Monument Proclamation, and the use of dogs or inadvertent shooting of a fisher or other “objects of interest” could potentially harm them.

The GSNM Proclamation states that the Monument was designated “for the purpose of protecting the objects.” If this project proposes to kill black bear, gray fox, and bobcat, it could result in the destruction of objects of interest in the Monument. Hunting for other small predators similar in size could result in the inadvertent destruction of a Pacific fisher, and any SUP and associated operating plan must ensure that this does not happen. “If the responsible official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA. If the responsible official determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an EIS.” 36 C.F.R. § 220.6(c).

Because of the potential adverse environmental impact to the GSNM objects of interest and the Pacific fisher, the Forest Service cannot issue these SUPs using a CE and should instead prepare a full EA.

Sincerely,



René Voss – Attorney at Law