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Subject: Tobias Project DEIS Comments for Sequoia ForestKeeper, the Kern-Kaweah Chapter of the Sierra Club, and Western Watersheds Project

Sequoia ForestKeeper, the Kern-Kaweah Chapter of the Sierra Club, and Western Watersheds Project wish to provide the following Draft EIS comments for the Tobias Project.

We hereby incorporate our February 28, 2015 scoping comments and October 20, 2015 supplemental scoping comments in their entirety by reference. Since we provided initial scoping comments circumstances have changed with regard to the California spotted owl (CSO) and the Pacific fisher, and the Kern River Ranger District is planning the Summit and Summit CE Projects directly south of the Tobias Project. These projects, as well as other projects (Frog, Rancheria, White River, Saddle, and Ice Helicopter) have significant cumulative effects that must be considered in the Tobias NEPA analysis.

Summary of Comments

Due to the various errors in the DEIS in the form of references to other projects (Frog instead of Tobias), tables cut off at the margins, data that makes no sense or has no explanation, and the misapplication of scientific studies, the Fisher Conservation Strategy, failure to use the Fisher and California spotted owl strategies and recommendations, the use of 10 inches as the diameter limit in many places for Alternative 2 when it should have been 8 inches, and the failure to even consider a 12 inch diameter limit rather than just the proposed 30 inch limit, we request that the District re-issue a corrected DEIS with a second comment period.

DETAILED COMMENTS

1. The Fisher Conservation Strategy was not used to inform the analysis.

Since scoping, the Forest Service has issued its *Southern Sierra Nevada Pacific Fisher Conservation Strategy* (Fisher Conservation Strategy), which was peer reviewed, then finalized, and finally released in February of 2016 (attached as Exhibit A). The Fisher Conservation Strategy includes specific direction for fisher habitat management in the Southern Sierra Pacific Fisher Conservation Area. The Fisher Conservation Strategy will also be used to inform the forest plan revision for the Sequoia National Forest.

Even though we requested that the Fisher Conservation Strategy be applied to the Tobias project, other than the next issue, which misapplies the strategy's recommendations, we could find no other references to the strategy in the Tobias Draft EIS. We contend that all of the Fisher Conservation Strategy and the science that supports it must be incorporated into the Tobias EIS. This strategy and the accompanying Conservation Assessment (attached as Exhibit B) represent the best available scientific information, which must be considered and incorporated into the design of the Tobias Project.

2. Fisher Tolerance Analysis is Inadequate and Incomplete

NEPA requires scientific accuracy and integrity. However, the analysis has misapplied the Fisher Conservation Strategy with regard to the fisher's tolerance to logging and other treatments in its analysis, which is based on the Zielinski et al. (2013b) scientific study on fisher tolerance. Instead of applying the tolerance calculations to each management grid cell, it uses the entire Fisher Core 2 area to dilute the adverse results.

Moreover, the analysis is incomplete because it does not calculate a rate of treatments over the time-period the District plans to implement the project and it fails to consider nearby foreseeable projects in those calculations, including Summit, Summit CE, Frog, Ice Tractor, Rancheria, Saddle, White River, and Ice Helicopter.

In reviewing the DEIS and the accompanying Tobias Draft Fisher Report, we found that on page 70 of the Fisher Report (also on PDF p. 256 of the DEIS), the District appears to recognize the management recommendation in Fisher Conservation Strategy, but applies it to the entire Core 2 area rather than a "management grid cell." As referenced, the strategy is based on the Zielinski et al. (2013b) scientific study.

The Tobias analysis states "Over the last five years, approximately 21,967 acres of commercial or precommerical thinning have been treated, or were proposed for treatment, within Core Area 2." It then concludes that "with the addition of the Tobias Project proposed treatments, Core Area 2 will experience far less disturbance than the <13% guideline proposed by the Fisher Conservation Strategy." Tobias Draft Fisher Report, p. 70 (also on PDF p. 256 of the DEIS).

We pointed this out to Dr. Zielinski: the writer appears to misapply the guideline from the Conservation Strategy both with respect to the time-frame and, perhaps more importantly, over too large an area—calculating treatment percentages compared to the entire Core 2 area when it should be applied to each management grid cell.

Dr. Zielinski responded in an e-mail to this particular point:

> I've reviewed the analysis on pg. 70, where the author (Emile Lang) attempts to apply the guideline from the Strategy that is based on our work (Zielinski et al. 2013). I applaud her attempt to conduct the analysis based on the latest science. There is admittedly some ambiguity re: the scale at which projects (recent past and proposed future) should be evaluated against the "<13%" value. This would

have been made clear if we had stated, in the paper, that our estimate of the percent of the landscape affected by veg management that is associated with the highest fisher indices *pertained to areas roughly equivalent to the size of our sample unit* (1,400 hectares or 5.4 mi2). There is a sentence in the abstract that comes closest to saying as much: "*Given that each sample area was 1400 hectares, this suggests that fishers consistently occupy – at the highest rate of use – places where an average of 2.6% of the area has been disturbed per year*." It is the nature of the analysis that because the percent value was estimated for a sample unit that was ~ 5 square miles in size, when the results are applied in another location it should also be evaluated for a similar-sized area. I note also that the Strategy recommends designing treatments to " *keep affected management grid cells in suitable….and limit disturbance…to < 13% of the affected cells over a five year period*". Note the reference to management grid cells which have a unique definition in the Strategy: they are 4 square mile-hexagons that the forests are recommended to use during fisher habitat planning and assessment. This was the intended scale for applying the results from our paper. This is because: (A) it is similar in area to the sample units used in the paper, and (B) anything significantly bigger would risk applying disturbance activities disproportionately to a small portion of the area, which would exceed the recommendation for that smaller area but not for the larger area. Thus, applying the recommendation of 13% per 5 years to an entire core (Core Area 2) is not the manner in which we intended the recommendation to be used. We were not as explicit as we should have been about this and I regret that.

I have cc'd this message to Emile and to Craig Thompson, a coauthor on the paper. I encourage either of them to chime in with additions/corrections/questions.

Zielinski e-mail, attached as Exhibit C (emphases in original).

The analysis must be redone and must provide much more specificity on treatments proposed in each management grid cell in order to assure the scientific accuracy and integrity of the analysis. Moreover, the District must provide an estimate for how long it will take to implement the project in order to determine the rate of treatments do not exceed those in the Fisher Conservation Strategy.

3. Thresholds for cumulative restorative treatments should not exceed, on average, 2.6% of Pacific fisher habitat per year, but the cumulative treatment acres from various projects likely exceed this threshold, putting fisher habitat and fisher use of the areas at risk.

The types of treatments proposed in the Tobias Project are referred to in Zielinski et al. (2013b) and the Fisher Conservation Strategy as restorative, which include fuel reduction thinning, prescribed fire, or pre-commercial (hand) thinning. Zielinski et al. (2013b) suggest that fishers occupy habitat at the highest rates where restorative treatments "are applied at rates that do not exceed about 13% of an area in 5 years …." or 2.6 % per year. Zielinski et al. (2013b) noted that although fishers showed no aversion to including treated areas within their home ranges, Garner (2013) found that "fishers avoided using treated areas when resting and foraging." *Id.*

We aver that, cumulatively, the Tobias, Summit, Ice, Rancheria, and Frog Project treatments are likely to exceed this 2.6% average treatment acreage per year, and thereby the proposed treatments "may put fisher habitat and fisher use of these areas at risk." *Id.* The Forest Service must therefore rethink its course of treatments in the fisher's habitat in the Greenhorn Mountains.

Although we do not have the exact location of each management grid cell, the application of treatments on this larger scale in the fisher's core habitat along the ridge in the Greenhorn Mountains south and north of Alta Sierra includes the treatments in the Tobias, Ice, Rancheria, Summit, and Frog Projects. The effects on fisher core habitat are calculated in Table 1., below, over 20 years.

Project	Total Fisher Habitat Acres	Treatment Acres in Fisher Habitat	% of Habitat	Implementation Time-Frame	Average Yearly Habitat Treatments
Summit*	10,000	2,500	25%	2015-2025	
Ice	10,000**	3,500	35%	2005-2015	
Rancheria	5,880	5,880	100%	2015-2020	
Tobias	7,000***	5,420	77%	2015-2025	
Frog	5,100***	1,630	32%	2014-2016	
TOTAL	27,980****	18,930	68%	2005-2025 (20 years)	**3.4%/year**

* Includes Summit CE acreage
** Mostly overlaps with Summit
*** Only estimated fisher habitat acres are included
**** Discounted Ice/Summit Project areas due to overlap

Table 1. – Treatment Acres and Average Yearly Habitat Treatment Percentages in the Greenhorn Mountains.

But more relevant going forward is what will happen when we look only at treatments proposed over the next 10 years. If we remove the Ice units from the equation, which were already implemented over the last 10 years, the time-frame for implementing the remaining four projects is the next 10 years (or 11 years if we consider that the Frog project implementation began in 2014). The implications of treatments over this time-frame are most concerning and are described in Table 2., below.

Project	Total Fisher Habitat Acres	Treatment Acres in Fisher Habitat	% of Habitat	Implementation Time-Frame	Average Yearly Habitat Treatments
Summit**	10,000	2,500	25%	2015-2025	
Rancheria	5,880	5,880	100%	2015-2020	
Tobias	7,000*	5,420	77%	2015-2025	
Frog	5,100*	1,630	32%	2014-2016	
TOTAL	27,980	15,430	55%	2014-2025 (11 years)	**5%/year**

* Only estimated fisher habitat acres included
** Includes Summit CE acreage

Table 2. Treatment Acres and Average Yearly Habitat Treatment Percentages in the Greenhorn Mountains from 2014 to 2025.

Those treatment amounts are nearly twice the 2.6% average per year maximum, which if exceeded, according to Zielinski et al. (2013b) "may put fisher habitat and fisher use of these areas at risk."

Given that only the Frog Project is currently partly implemented, the Forest Service must re-think its course with regard to the remaining projects, including Tobias, which pose a significant risk that fishers will abandon the area and that the area will no longer be viable as fisher habitat. Moreover, the current proposal, in combination with the various other projects, likely violates NFMA's requirement to maintain species diversity because the viability of fishers cannot be maintained in the project area or the Greenhorn Mountains and likely would lead to listing of the Southern Sierra Nevada fisher population under the ESA.

4. <u>The CSO Management Recommendations</u>

As discussed in our supplemental scoping comments, the Forest Service should have used the new CSO management recommendations to inform all alternatives in the Tobias Project. The CSO management recommendations must inform the environmental analysis for all the alternatives because they represent the most recent and best available scientific information about habitat conservation and management for the CSO. However, there are no references to those recommendations in the Tobias DEIS.

5. <u>Failure to consider an adequate range of alternatives</u>

In our October 20, 2015 supplemental scoping comments, we requested that, in addition to the alternatives that were being developed, that the District develop an alternative which implements the new "*Draft Interim Recommendations for the Management of California Spotted Owl Habitat on National Forest System Lands 29 May 2015.*" The DEIS, however, did not include such an alternative, even though it represents the best available scientific information. We again request that the District include such an alternative in its FEIS.

And in our original scoping letter, we asked that the District include a 12 inch diameter limit alternative, which was not included and does not appear to have been even considered. Adjacent projects in the Giant Sequoia National Monument (Tule River Reservation Protection Project and Ponderosa) have used this diameter limit. Instead, Alternative 3 states that it has an 8 inch diameter limit, although in many places it uses 10 inches in the analysis.

6. Errors throughout the DEIS must be corrected and a new DEIS should be released for comment.

In addition to the general errors already pointed out above, the analysis includes several specific errors that should be corrected.

- Table 5, p. 46 – The "existing" numbers in Alt. 3 make no sense – why are they different from Alt. 2?
- Table 52, p. 177 – has 10" or smaller trees when Alt. 3 is 8" or below.
- Table 57, p. 185 – same
- p. 219, states "Frog Project Area" instead of "Tobias"
- Table 68, p. 221-22 – the table is cut off on right side
- Table 69, p. 222 – the table is also cut off on the right side

There are also various figures without reference to measurement units. One is left to guess what they mean.

7. Cumulative effects from the Tobias Project, the Summit and Summit CE Projects, and other projects in the vicinity must be analyzed in detail in the Tobias EIS.

In addition to the past cumulative effects from the Ice Project and salvage logging after the Shirley Fire, the analysis must discuss the Tobias Project in relation to other past, present, and foreseeable future projects, including the newly-proposed Summit and Summit CE Projects, which are located directly to the south of the project area on the Kern River Ranger District. The analysis must also include the Frog Project, which is directly north of the Tobias Project area, and the Rancheria Project, which is directly south of the Ice and Summit project areas.

In addition, cumulative effects analyses should also include the White River and Saddle projects, as well as the Ice Helicopter Units (all in the GSNM and which are currently enjoined, but remain under contract and could be logged in the future), the Red Mountain Project, and any other projects implemented or proposed around the Alta Sierra communities on public and private lands.

While Table 26 in the Tobias Draft Fisher Report lists most of the projects that may have cumulative effects, it lists the White River Project twice, but omits the Ice Helicopter units, which are located nearby in the Monument.

While this table may be useful to analyze the effects on fishers, all of these projects also cumulatively affect various other species and resources and should be included in the DEIS.

Cumulative effects should consider effects on Townsend's big-eared bat, ring-tailed cat, Pacific fisher, northern flying squirrel, Mt. Pinos sooty grouse, mountain quail, California condor, golden eagle, sharp-shinned hawk, northern goshawk, great gray owl, California spotted owl, black-backed woodpecker, pileated woodpecker, gregarious slender salamander, Greenhorn Mountains slender salamander, yellow-blotched ensatina, southern mountain yellow-legged frog, foothills yellow-legged frog, Blainville's horned lizard, Sierra night lizard, southern rubber boa, western bumble bee, Piute cypress, southern honeysuckle, Tulare cryptantha, Kern County larkspur, Greenhorn fritillary, tube flower bluecup, Munz's iris, gray-leaved violet, three bracted onion, Shirley meadows star tulip, forget-me-not popcornflower, and slender leaved ipomopsis.

Moreover, the DEIS' cumulative effects analysis fails to consider the past, present, or other reasonably foreseeable future actions in the forest adjacent to the project area and throughout the Southern Sierra Pacific Fisher Conservation Area on Pacific fishers. It also fails to consider the impacts to fishers from canopy cover reductions in the Tobias Project area that could reduce canopy cover <u>over</u> 30%. "Canopy cover will not be reduced more than an <u>average</u> of 30% in any treatment area." Tobias DEIS, page 41 (emphasis added, implying that certain areas will receive greater than 30% canopy cover reductions). Because 4 MMBF of trees would be removed from "Mid to Late-Successional Forest Stands – 40 to 150 years old overstory," Alternative 2 will result in changes to late seral closed canopy coniferous forest habitat to an extent that will adversely affect Pacific fishers. Furthermore, post-treatment monitoring will not do anything to prevent canopy cover reductions or prevent damage to species habitat. Reducing canopy cover up to 30 percent from 80% to 50% or 70% to 50% will damage old growth characteristics and be detrimental to Pacific fishers, California Spotted owls, American Marten, and other old growth-dependent species.

8. <u>The Tobias DEIS fails to analyze the impacts of the Tobias Project on climate change</u>.

The DEIS only considered climate change impacts on managing forests and fails to consider the effects from the Tobias Project on climate change. It therefore fails to respond to our scoping comments, in which we cited Forest Service policies and procedures that require this analysis. See SFK-SC-WWP initial scoping comment letter, p. 15 *et seq.* (Feb. 28, 2015). A revised DEIS or FEIS should include a rigorous analysis of the Tobias Project's effects on climate change.

9. <u>The Tobias DEIS and Botany Report should provide estimates of occurrences of Shirley Meadows star tulip</u>.

According to the DEIS and Botany Report, the trend for the Shirley Meadows star tulip, *Calochortus westonii* is "Unknown; presumably stable." The accompanying text includes a confused summary of occurrences including occurrences that are now known to be extirpated.

We request that the District provide a quantitative estimate of the number of extent occurrences with their estimated abundances, and comparable estimates for those occurrences that are within the project area as well as those occurrences in the area's other projects in the cumulative action area.

10. The DEIS fails to disclose any effects from the Tobias Project on the Giant Sequoia National Monument.

Even though the western boundary of the Tobias Project directly abuts the Giant Sequoia National Monument boundary, there is no disclosure of potential effects on the Monument. Potential effects include:

- Noise from logging operations
- Use of Monument roads by log trucks
    - effects on Monument users
    - degradation of Monument roads, such as 23S16 or M9
- Effects to Monument forest stands directly adjacent to logging units and fuel breaks, such as
    - potential increased fire risks from logging
    - wind effects after stands are thinned or from fuel breaks
    - displacement of wildlife to the Monument where they must compete with existing occupied habitat
    - reduction of water availability due to drying effects of thinned stands or fuel breaks on adjacent Monument stands
- Recreational effects

For Sequoia ForestKeeper, the Kern-Kaweah Chapter of the Sierra Club, and Western Watersheds Project,

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