



November 18, 2022

Fred Wong, District Ranger
c/o Erin Noesser
Inyo National Forest Supervisors Office
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Bishop, CA 93514.
Sent via: <https://www.fs.usda.gov/project/?project=61827>

Re: Comments on the ESCCRP Project

On behalf of the John Muir Project of Earth Island Institute and Center for Biological Diversity, we are submitting these comments regarding the ESCCRP Project (Project).

Inventoried Roadless Areas: The Project intends to authorize thinning “where necessary due to departure from desired conditions” on up to 18,000 acres in IRAs. The Project states it “will conform with the Roadless Rule when removing trees,” but no additional information is provided regarding the Rule’s requirements. For example, the Rule only allows removal of “generally small diameter timber,” limits any logging to “overgrown areas,” and requires that the overstory be left “intact.” The Project does not state how these requirements will be met. The Project also asserts that “prior to implementation, proposed IRA treatments will require additional site-specific review and approval of their conformance with exceptions in the 2001 Roadless Rule by the responsible official with authority to make decisions regarding the protection and management of IRAs,” but no further explanation as to what this means or what it will entail is provided.

The Project will potentially alter the undeveloped character of the San Joaquin, Sherwin, and Laurel McGee Inventoried Roadless Areas. 36 C.F.R. § 220.5(a) identifies actions that “require environmental impact statements,” including those “that would substantially alter the undeveloped character of an Inventoried Roadless Area (IRA) or a potential wilderness area.” Here, the Project may impact thousands of IRA acres thru mechanical logging. Prior U.S. Forest Service decisions to harvest timber in roadless area have been deemed significant and required

site-specific EISs. *See, e.g., Smith v. U.S. Forest Service*, 33 F.3d 1072, 1079 (9th Cir. 1994). Courts have also held that logging in roadless areas is significant because roadless areas have specific attributes such as water resources, soils, wildlife habitat, and recreation opportunities, that possess independent environmental significance and must be analyzed as required by NEPA and 36 C.F.R. § 220.5(a). *Lands Council v. Martin*, 529 F. 3d 1219 (9th Cir. 2008). Impacts to roadless areas are also significant because of their potential for designation as wilderness areas under the Wilderness Act of 1964, 16 U.S.C. §§ 1131–1136. *Id.* at 640; *Smith*, 33 F.3d at 1078–79.

Wildlife:

The Project area contains ESA listed species and/or critical habitats (e.g., Sierra Nevada bighorn sheep, Sierra Nevada red fox), species proposed for listing (sage grouse), and Forest Service species of conservation concern (e.g. Sierra marten).

The Project documents do not address bighorn sheep or red fox. The Forest Service therefore needs to do so and to also consult with USFWS regarding these species.

The Project will also potentially harm Bi-State sage grouse habitat via “targeted mowing of sagebrush where there is a risk of high severity wildfire near community assets.” More specifically, it appears that mowing will occur “within 300 feet of existing hard infrastructure/buildings and up to 300 feet within other infrastructure such as roads or strategic areas for fire management,” and “[w]ithin sage-grouse habitat, 25-35% of sagebrush, shrub, native grass, and forb cover will be preferentially retained to provide adequate cover for sage-grouse (Connelly et al., 2000).” Because reductions of sagebrush canopy can cause harm to the species, we ask that these actions be limited to as small an area as possible. Vegetation treatments for sagebrush cover under 30% are not recommended and can have many unintended ecological consequences such as exotic annuals (e.g. cheatgrass) that can outcompete the native forbs and grasses.

Martens require dense old forest habitat with high canopy cover, and Moriarty et al. 2016¹ explains: “Fuels treatments that simplify forest structure (e.g., removal of small diameter trees, downed logs) have negative effects on marten movement dynamics. Thus, the most obvious recommendation to benefit martens is to plan fuels treatments outside of their habitat. . . .” Here, however, Project activities are planned within marten habitat, and the Project seeks to create forest conditions with very low canopy cover/simplified forest structure. The Project states that a “review will focus on drainages, swales and canyon bottoms and on north- and east-facing slopes, to ensure habitat containing a patchy mosaic of shrubs and shade-tolerant understory vegetation, separated by more open areas (i.e., meadows) are available across the Project,” but does not explain how marten habitat will in fact be maintained in the Project area. The Project

¹ Moriarty, KM, CW Epps, WJ Zielinski. 2016. Forest thinning changes movement patterns and habitat use by Pacific marten. *The Journal of Wildlife Management* 80(4): 621–633

also seeks to remove dead and green trees across over 15,000 acres but does not discuss how wildlife habitat, such as for marten, will be maintained.

Moreover, there is a locally important mule deer herd that could be significantly impacted by the Project—for example, the Sherwin/Solitude Canyon area is highly important to mule deer as it provides a key migratory path for the local Round Valley mule deer herd as they move to their summer fawning grounds. The Project document speaks to “WLF-17” which would be a LOP to avoid disturbance to mule deer migration from their winter to summer range (May 1 and June 15), but does not contain a LOP for the migration from summer to winter range, nor any measures to ensure the migration route is adequately protected from logging or other impacts. The Solitude/Duck Pass area is discussed in Dr. Tom Kucera’s 1988 dissertation (see p. 30-33), which explains the great importance of this particular area to the deer, noting for instance that this is one of the two most frequently used migration routes and that the “deer moving over Solitude/Duck Pass summered over a larger area of the western Sierra than did deer using any other of the passes.” Consequently, the importance of this area to mule deer of the region cannot be understated and therefore it is critical to protect these deer from the harms that can be caused by the Project.

Sincerely,

A handwritten signature in cursive script that reads "Justin Augustine".

Justin Augustine,
Center for Biological Diversity, and on behalf of John Muir Project
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