11/26/2024

Los Padres National Forest
Angeles National Forest
701 North Santa Anita Avenue
Arcadia, CA 91006
ATTN: Piru Creek CRMP
https://www.fs.usda.gov/project/?project=58710
Gary.Seastrand@usda.gov

RE: Comments on the Piru Creek CRMP, EA, and User Capacity Analysis

Dear USFS:

The Center for Biological Diversity ("Center") and Los Padres ForestWatch submit the following comments regarding the Piru Creek Comprehensive River Management Plan (CRMP) and its associated Environmental Assessment ("EA") and User Capacity Analysis. The Center focuses on protection of native species and their habitats through science, policy, and environmental law. The Center has more than 1.7 million members and supporters throughout the United States, including residents in California and members who regularly visit and enjoy the 7.25-mile Piru Creek Wild and Scenic River section and intend to do so in the future. The Center has worked for many years to protect imperiled plants and wildlife, the habitat they depend on, open space, air, and water quality in California on public lands managed on Los Padres and Angeles National Forests. The Center in conjunction with Los Padres ForestWatch submitted comments on (1) the Draft River Values Report on August 30, 2022, and (2) the Piru Creek Comprehensive River Management Plan (CRMP) and River Values Assessment on April 16, 2024, which are incorporated herein by reference. As discussed below, the proposed CRMP is incomplete in several ways, most importantly because it fails to incorporate wildlife as an outstanding remarkable value (ORV) of the Piru Creek Wild and Scenic River.

Background

The Wild and Scenic Rivers Act (WSRA) exists to conserve designated rivers, especially their "outstandingly remarkable . . . values" and "free-flowing condition." 16 U.S.C. § 1271. The WSRA requires agencies "to protect and enhance the values which caused [the river] to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values." 16 U.S.C. § 1281(a). The WSRA further requires agencies to develop comprehensive management plans, including "user

capacities" to ensure protection of the river and its outstandingly remarkable values. 16 U.S.C. § 1274(d)(1).

The Act classifies rivers, or segments thereof, as "wild," "scenic," or "recreational." 16 U.S.C. § 1273(b). "Wild" rivers are those in their most natural state, representing "vestiges of primitive America." *Id.* § 1273(b)(1). Wild rivers are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. *Id.* "Scenic" rivers are "free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads." *Id.* § 1273(b)(2). "Recreational" rivers are "readily accessible . . . may have some development along their shorelines, and . . . may have undergone some impoundment or diversion in the past." *Id.* § 1273(b)(3).

Congress designated two (2) segments of Piru Creek – 4.25 miles as wild, and 3.0 miles as recreational for a total of 7.25 miles starting from 0.5 miles below Pyramid Lake to the Los Angeles/Ventura County line. 16 U.S.C. § 1274 (a)(197).

Wildlife Is An "Outstanding Remarkable Value" ("ORV") of Piru Creek and the EA and CRMP Fail to Adequately Address or Protect ESA-listed Species

Despite our previous comments explaining why wildlife is an ORV of Piru Creek, the proposed CRMP continues to wrongly conclude that (1) "[t]here is nothing rare, unique, or exemplary about the wildlife populations or habitat in Piru Creek WSR," and (2) there do not exist "any nationally or regionally significant wildlife populations, diversity of species or habitats, or habitats of exceptionally high quality" in Piru Creek. Many species and their habitats within Piru Creek qualify for protection under a Wildlife ORV.

First, condors are not only rare, they are known to use ridgelines, rocky outcrops, and steep canyons for roosting (U.S. Fish and Wildlife Service, 2013), which are features found in both sections of Piru Creek. The proposed CRMP dismisses condors claiming there are no confirmed nesting or roosting sites within Piru Creek WSR, but as we noted before, no effort was made to demonstrate that the corridor is not used by condors or that the area is not important for the condors' recovery. In fact, the most recently available condor tracking data provided by the U.S. Fish and Wildlife Service[1] shows that condors *are* roosting and perching within the corridor (see attached Figure 4).

Federally designated critical habitat for the southwestern willow flycatcher (SWWF) (78 Fed. Reg. 344-534) is also present in the Piru Creek corridor. The proposed CRMP dismisses the importance of this critical habitat by claiming the amount in Piru Creek is "minimal" as compared to the overall amount of critical habitat for the SWWF, but this fails to address the critical habitat's regional significance for the SWWF or its value as a linkage with other habitats regionally or nationally. Furthermore, in other determinations of ORVs for Wild and Scenic River Comprehensive Management Plans in the adjacent San Bernardino National Forest (the Whitewater, Deep Creek, San Jacinto, and Bautista Creek CRMPs), which is within the same "region of comparison" as Piru Creek, Wildlife was determined to be an ORV due to the

[1] Obtained from https://www.sciencebase.gov/catalog/item/53a1d33ae4b0403a441545c7

presence of SWWFs, and *despite* the lack of federally designated critical habitat for the species in those river areas. Yet, for Piru Creek, which *is* designated as federal critical habitat, the Forest Service dismissed recognition of this SWWF habitat as a Wildlife ORV. Finally, we could not find any analysis or measures within the CRMP to ensure that SWWF critical habitat will not be degraded by recreational users.

The Piru Creek Wild and Scenic corridor also contains riparian habitat that is important for other riparian-reliant species, including the endangered (federally and in California) least Bell's vireo (*Vireo bellii pusillus*), which may use the riparian zone for migration and feeding. Other sensitive species include yellow breasted chat (*Icteria virens*), and yellow warbler (*Setophaga petechia*). In addition, the southwestern pond turtle (*Actinemys pallida*) is currently a federally proposed threatened species (88 Fed. Reg. 68370-68399) that is documented to occur within the recreational segment of Piru River (CNDDB 2024). Yet none of these species are even discussed in the CRMP with respect to why they do not qualify for a Wildlife ORV or how the CRMP will ensure their protection. Because the documented location of the southwestern pond turtle is located in Frenchman's Flat, which experiences high recreational use, it is critical that the CRMP recognize this Wildlife ORV and provide safeguards to protect this species in that high-use area. That is particularly true because the User Capacity Analysis (as a result of Wildlife not being an ORV) does not even mention the turtle, let alone provide protection for it.

Moreover, not only is critical habitat for the threatened California red-legged frog (*Rana draytonii*) found less than 0.2 miles downstream of the Piru Creek Wild and Scenic River corridor (and may be affected by management of the area), the Piru Creek corridor contains habitat for the frog that can provide an important recovery opportunity. Yet the CRMP and EA fail to recognize this opportunity or address it at all.

Approximately 0.5 miles downstream of the Piru Creek Wild and Scenic River corridor, critical habitat for the arroyo toad (*Anaxyrus californicus*) exists. There is a requirement that flows released from Pyramid Lake mimic a more natural hydrology in order to facilitate the arroyo toad lifecycle with the goal of recovering the population. Yet the CRMP and EA provide no data on the status of the arroyo toad within the Piru Creek Wild and Scenic River corridor or whether any recent surveys have been done for the species in the corridor. A 2008 study of the Santa Clara River system (including Piru Creek) noted the presence of arroyo toads at two locations within the WSR corridor. Arroyo toads are known to move over a half mile, especially up and down streams (Mitrovich et al., 2011) potentially within the Wild and Scenic Corridor. The arroyo toad needs recovery opportunities, and therefore the CRMP needs to recognize it as a Wildlife ORV, address and include opportunities for the toad to move upstream from the documented populations downstream of the Wild and Scenic Corridor, and include management for its recovery within the Wild and Scenic corridor. The Recovery Plan for the arroyo toad (U.S. Fish & Wildlife Service, 1999) identifies threats specifically for Piru Creek and benchmarks for downlisting and delisting of the species. The Wild and Scenic CRMP needs to address the threats in lower Piru Creek and provide management guidance that supports the requirements for downlisting and delisting the arroyo toad.

The Piru Creek watershed also contains the westernmost extent of the range of the Desert banded gecko (*Coleonyx variegatus variegatus*), the only known location of this species in Ventura

County and the only gecko species known to occur in Los Padres and Angeles National Forests. That is obviously unique yet this species is entirely ignored by the EA and CRMP.

Other CRMPs further demonstrate why wildlife is an ORV of Piru Creek. For example, in the North Fork of the San Jacinto River, the Wildlife ORVs were determined as follows:

> The wildlife values along the North Fork San Jacinto River are recognized as being outstandingly remarkable based on the following: 1) the presence of historic and suitable habitat for mountain yellow-legged frog, 2) recognition of the value of this habitat based on the highly endangered status of the mountain yellow legged frog and, 3) the diversity of Forest Service Region 5 Sensitive Species present in the area, including the California spotted owl, southern rubber boa, and San Bernardino flying squirrel.

(U.S. Forest Service, 2022 – Appendix A at pg. 17). The analysis in the North Fork of the San Jacinto River CRMP includes critically endangered mountain yellow-legged frog even though it is not currently present in that WSR—its habitat remains suitable and has value for species recovery.

For Fuller Mill Creek, which is a re-introduction site for the previously extirpated federally and State endangered mountain yellow-legged frog, the wildlife ORV was determined because:

> The wildlife values along Fuller Mill Creek are recognized as being outstandingly remarkable based on the following: 1) the presence of occupied habitat for mountain yellow-legged frog and recognition of the value of this habitat for species recovery, 2) recognition of the significance of this occurrence; it is one of only several occurrences in southern California, and 3) presence of other Forest Service Region 5 Sensitive Species including the California spotted owl and San Bernardino flying squirrel.

(Id, 2022). Fuller Mill Creek has a reintroduced population of mountain yellow-legged frogs that persist and the Wildlife ORV also identifies additional Forest Service Sensitive Species.

At Piru Creek, habitat for the historically documented population of the endangered (federally and California) foothill yellow-legged frog - south coast DPS (*Rana boylii* pop. 6) (CNDDB 2024), which was presumed extirpated in 1994, occurs. The global amphibian die-off crisis (Luedtke et al., 2023), the need for recovery efforts for this local critically endangered south coast DPS, the current flow regime that mimics more natural flow patterns, and the presence of habitat within the Piru Wild and Scenic River, further demonstrate the area contains a Wildlife ORV, as it has on National Forests in the "region of comparison" for other critically endangered frogs. Yet the foothill yellow-legged frog is not even acknowledged in the EA or CRMP for Piru Creek.

As identified above, other CRMPs in the "region of comparison" rely on Forest Service Region 5 Sensitive Species as a value on which to identify a Wildlife ORV and ultimately include a Wildlife ORV as a result:

- Whitewater CRMP (U.S. Forest Service, May 2024)- gray vireo (*Vireo vicinior*), and crissal thrasher (*Toxostoma crissale*) and desert bighorn sheep (*Ovis canadensis nelsoni*);
- Deep Creek CRMP (U.S. Forest Service, May 2024)- several species of falcon, deer (*Odocoileus hemionus*) and black bears (*Ursus americanus*) as well as the riparian areas being used by migrating birds and other wildlife;
- Bautista Creek CRMP (U.S. Forest Service, 2022) - legless lizard, three-lined boa, two-striped garter snake, and San Diego ringneck snake. The greenest tiger beetle, a rare invertebrate, was collected in the 1970s along the creek and may still occur and federally designated critical habitat for the federally endangered Quino checkerspot butterfly.

Other CRMPs, potentially outside the "region of comparison" but still in Forest Service Region 5, in the Inyo National Forest, include a Wildlife ORV based on the following:

- Owen River Headwaters CRMP (U.S. Forest Service, March 2023c)- Federally threatened Yosemite toad and "one of the few occurrences of Yosemite toad within the Forest that is outside of the USFWS designated critical habitat (USDA Forest Service 2017a)"; northern goshawk; potential habitat for willow flycatcher (includes Sierra Nevada mountain willow flycatcher and Great Basin willow flycatcher), but no known breeding habitats (California Department of Fish and Wildlife 2007; USDA Forest Service 2017b); significant seasonal migration corridor for mule deer, and summer foraging habitat and fawning areas; also provides an important trans-Sierra migratory corridor for black bear and bobcat. The WSR corridor also hosts a diverse community of bird species documented through survey that identified 17 bird species including "dark-eyed junco, mountain chickadee, and warbling vireo (Point Blue Conservation Science 2021)". The upper watershed may provide foraging habitat for California spotted owl; high diversity of butterfly species occurs "including six species listed as species of conservation concern (SCC) for the Forest (USDA Forest Service 2019) and potential aquatic snail detections or surveys for Wong's springsnail and Owens Valley springsnail, both of which are SCC species.
- Cottonwood Creek CRMP (U.S. Forest Service, May 2023a) - The currently proposed threatened bi-state distinct population segment (DPS) of sage grouse, which is a Forest Service Species of Conservation Concern (SCC); northern goshawk; "WSR corridor also hosts a diverse community of bird species" based on surveys that identified 26 bird species along a transect near Cottonwood Creek including "dusky flycatcher, house wren, and song sparrow (Point Blue Conservation Science 2021)"; summer herd of mule deer and herds of Nelson desert bighorn sheep, a SCC; "Willow shrub communities within the riparian zone may provide habitat for migratory bird species including SCC willow flycatcher (includes Sierra Nevada Mountain Willow Flycatcher and Great Basin Willow Flycatcher), but no known breeding habitats"; "numerous spring systems may provide habitat for aquatic springsnails and create fens with wet organic layers. SCC Wong's springsnail and Owens Valley springsnail are present in this area, although they have not been found in the WSR corridor. Additional surveys for these species and monitoring for aquatic springsnail species are recommended."

The above Region 5 evaluations recognize the important wildlife values of federally designated critical habitat; re-introduction opportunities for endangered species to suitable habitat where they may not currently be present; the importance of species of conservation concern; the important value of riparian corridors for migratory birds; and the importance of terrestrial habitat with water for more common species and invertebrates tied to water (springsnails) in identifying a Wildlife ORV. The Forest Service's failure to recognize a Wildlife ORV in Piru Creek not only contravenes the available data and common sense, it is inconsistent with the Forest Service's own practice across Region 5.

Finally, the importance of the Piru Creek Wild and Scenic River area for wildlife connectivity is yet another reason Wildlife is an ORV for the area. Specifically, the area has been modeled to provide important wildlife connectivity by three different efforts:

- The South Coast Missing Linkages includes a large portion of the Piru Creek Wild and Scenic corridor in its Sierra Madre-Castaic Linkage Design (South Coast Wildlands, 2008). Figure 1 overlays this linkage design over the Piru Creek Wild and Scenic River Corridor.
- The Conservation Biology Institute included the Piru Creek Wild and Scenic River area in its modeling of Connectivity Linkages and Conditions for the Desert Renewable Energy Conservation Plan (Conservation Biology Institute, 2015). Figure 2 overlays this linkage over the Piru Creek Wild and Scenic River Corridor.
- The California Department of Transportation and California Department of Fish and Game commissioned the California Essential Habitat Connectivity Project identify a functional network of connected wildlands that is essential to the continued support of Californias diverse natural communities and wildlife (California Department of Transportation & California Department of Fish and Wildlife, n.d.). Figure 3 overlays this habitat connectivity with the Piru Creek Wild and Scenic River Corridor.

These three figures show the importance of the Piru Creek Wild and Scenic River Corridor for wildlife movement and linkages. Wildlife connectivity allows for the movements of organisms, for gene flow, and for range shifts and therefore is a key factor in the long-term viability of populations, particularly for animal species (Liu et al., 2018). Because the Piru Wild and Scenic Corridor is included in no less than three separate wildlife connectivity efforts that are relied on by State and federal agencies, the Piru CRMP must also include Wildlife as an ORV.

Federal Reserved Water Rights Must Be Addressed With A Timetable

The CRMP recognizes that "Section 13(c) of the Wild and Scenic Rivers Act expressly reserves the quantity of water necessary to achieve the Act's purposes for each WSR designation. . . [and] [a]s a result, Piru Creek WSR is entitled to protection by a federal reserved water right that was created when Congress designated the river." But the CRMP then fails to provide any timetable for asserting and securing the federal reserved water right. Water is a critical component of the "Wild and Scenic" designation and management under the Act. The CRMP must identify a reasonable timeline for securing the water rights for Piru Creek.

The User Capacity Analysis Fails to Ensure Protection of Wildlife, Including ESA-listed Species

The user capacity analysis finds that "visitor-created day use sites are of concern because many are heavily used, and each has a boundary along the Piru Creek water's edge, [and] visitor-created informal side-trails that traverse steep slopes drain directly to visitor-created day use recreation sites on Piru Creek shorelines." The analysis concludes that to address these issues, "the careful selection and closure/replacement of these informal trails and at-large recreation sites with sustainable, formal trails and dispersed recreation sites would mitigate sediment loading and better accommodate recreation use." For example, the analysis states that "the existing, poorly aligned visitor-created at-large day use sites in Analysis Area 1 and Analysis Area 2 can be replaced with . . . sustainably designed day use recreation sites." It is unclear, however, whether the CRMP commits to these corrective actions, and therefore the CRMP should plainly delineate what in fact will occur to promptly address the harm from visitor-created day use sites and informal trails.

The user analysis also explains that "site management alone may not be enough to protect free flow and water quality if crowding occurs [because] [i]f visitors feel crowded, they may disperse beyond formal trails and recreation sites to create their own personal space [which] could cause visitors to pioneer new informal trails and at-large recreation sites, which would in turn increase the extent of bare ground and sediment loading in the area and potentially degrade water quality and free flow." The analysis finds that "the limiting factor for recreational use . . . is the number of people at one time (PAOT) that can be accommodated without visitors feeling crowded." The analysis then finds that day use capacity in Analysis Area 1 is 200 people per day and in Analysis Area 2 is 480 people per day. The analysis does not address wildlife, however, and so there is no discussion of how these day-use capacities are compatible with the wildlife that lives in the area, including rare and endangered wildlife as described above. While wildlife should be an ORV for the reasons discussed above, the impacts to wildlife from recreational use of the area must be addressed, yet are not, especially with respect to rare and endangered species.

Conclusion

The CRMP's failure to designate Wildlife as an ORV for both the Recreational and Wild sections of Piru Creek is unsupportable and a Wildlife ORV must be included in a revised CRMP and impacts to wildlife addressed in the User Capacity and EA.

Sincerely,

Ileene Anderson and Justin Augustine
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
916-597-6189
jaugustine@biologicaldiversity.org

Bryant Baker
Los Padres ForestWatch
PO Box 831
Santa Barbara CA, 93102
805-770-7456
bryant@lpfw.org

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