



April 1, 2025

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On behalf of the Conservation Congress, I am filing this Objection on behalf of Conservation Congress and our members per 36 CFR 218, on the draft Decision Notice, FONSI and EA for the Rattail Project on the Six Rivers National Forest. It is signed by Ted McArthur, Forest Supervisor.

Conservation Congress staff and members visited the SRNF regularly. Conservation Congress provided scoping comments on this project on 1/12/24 and draft EA comments on 9/9/24. We incorporate by reference both of these documents, in their entirety, into this objection. Both documents are already in the AR, and both documents were virtually ignored in the development of this project. The final EA suffers from the same lack of specific information as the draft EA and harms owls that are currently living in ACs below minimum habitat thresholds.

The Rattail Project violates NEPA and the ESA, as well as the Revised Recovery Plan. It is illegal under the law. Frankly, we are disgusted with the pathetic report that is allegedly a BA, as well as the LOC from the Arcata FWS office. Both agencies have simply given up on the NSO and its critical habitat. Both agencies lie and deceive the public. Both agencies violate the law with impunity. We request you explain your actions in court.

FWS Letter of Concurrence

It is unlawful for the USFS to rely on a LOC or BiOp that it knows, or should know, is illegal. This is a major failing of both agencies because the FWS simply regurgitates and rubber stamps

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whatever the FS wants it to. The LOC simply reiterates what the FS told them with no analyses of any kind.

The LOC make significant errors and omits significant information. First, RA 10 and RA-32 are never mentioned in the LOC (or the BA for that matter) despite the project being within NSO CHU 11. Next, the LOC admits that two ACs 212 and 267 (both below minimum habitat thresholds and therefore at take level), will have core areas logged and home ranges logged, while two other ACs (214 & 216), will have areas outside the core areas but in the home ranges logged. These are violations of the Revised Recovery Plan, FWS internal guidance, as well as the ESA which mandates agencies to work towards recovery, not simply maintain the status quo which in this case are ACs that are so deficient in habitat that owls are likely not successfully reproduce. This project will make the situation worse. The LOC fails to mention that ACs are currently at take level. That is a misrepresentation of facts. The LOC also ignores the project impacts to the local owl population and only measures habitat degradation at the CHU scale. Considering the NSO is in a “extinction spiral” this is a major oversight.

The total project area falls within the Eel River LSR and CHU 11. The amount of CHU in the action area is 7,155 acres with 3,900 acres N/R habitat (55%); 1,726 acres of foraging habitat (24%); and 1,529 acres (21%) of dispersal habitat. The project will log approximately 618 acres (36%) of foraging habitat and 342 (9%) acres of N/R habitat in the action area. The LOC spreads these numbers out over the entire CHU rather than the project area where the owls live.

In addition, 13 acres of critical habitat will be removed for temp roads and landing. The LOC states the impacts of this removal “cannot be calculated with any amount of certainty and are considered insignificant and discountable.” The loss of critical habitat designation is not, and has never been, insignificant and discountable. Again, the LOC spreads this removal out over the 16,810 acres of the action area; not the 7,155 acres of the project area. 13 acres is 566,280 square feet or about 19 football fields. That is a significant impact to the project area and we suggest the FWS find a qualified biologist to analyze the impacts of this significant removal of habitat. Both agencies have the gall to claim that no habitat removal will occur. That is a lie.

Other than disclosing acreages and treatments, there is no analysis of how this project “may affect, but not adversely affect” the NSO and its critical habitat. It is a poor excuse for an LOC and the FS should not rely on it in its decision-making.

Biological Assessment

Habitat Typing

It is important to note the SRNF relied on the Mad River 2009 Vegetation Layer Meta-Data to determine N/R/F habitat. That data is 16 years old and the Mad River District has been logged to

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death as well as experiencing some wildfires. Therefore, the estimates made in general are worthless. The SRNF must ground truth the LSRs and CHUs and develop a legitimate Environmental Baseline. Until this occurs the FWS should refuse to consult on any projects in NSO habitat and automatically issue a jeopardy opinion.

Literature

We also note the Literature Cited (App. B) is old and often outdated. The best available scientific information on NSO was left out and not considered. This is a violation of NEPA and failure to take a “hard look” at impacts.

The oldest paper is from 1938 and the vast majority of papers are from the 1990s. Notably missing is Dr. Monica Bond’s research. She has published more NSO papers in N CA than any other researcher. Derek Lee is another notable researcher. Tonja Chi works in this area and often comments on projects and is a local expert on NSO. None of their science was used in this project. The FS is aware of this research and has been sent copies numerous times. The FS did cite PGEs operations and maintenance plan. I’m sure that document was quite illuminating for documenting harms to NSO. For “take” under the ESA the SRNF relied on a 2019 publication for evaluating take on private timberlands in N CA. The SRNF is not private timberlands, despite being managed as such.

Analysis Assumptions Made

Pages 12 & 13 of the BA include major assumptions (not a complete listing), made “to establish baseline of information from which an analysis of effects can be made.” That is NOT the criteria under the ESA which requires a legitimate environmental baseline reviewed by the USFWS. This project has been in development since 2019. In 6 years the SRNF claims it can’t ground truth, survey, or take any meaningful measures to document NSO habitat and populations?

Wildfire

The FS keeps insisting it must log the forest to prevent wildfire. This does not work and has never worked, If the SRNF used the best available science it would know this. In addition, NSO will use burned habitat and do so on the SRNF. They have even been documented nesting and raising young in burned habitat on the SRNF. But they will not use logged habitat.

Surveys

The BA states previous surveys have been done and will continue in 2024. It is now 2025. Were protocol surveys conducted in 2024 and 2025. This information should be made available to the public.

ACs 212 & 267 are both occupied, yet both are slated for logging. AC 267 is an active long-term site – vitally important for conservation of the NSO. There has also been a recent sighting in AC 214 that will also be logged. At this point any occupied NSO AC is vital for NSO conservation and should not have any logging in the entire ACs.

Barred Owls

There are also Barred owls in the areas and logging them will make them more desirable to Barred owls and less desirable for NSO.

Take of NSO

The SRNF states that despite the logging in core areas and home ranges, no suitable habitat will be downgraded. The ACs are all below minimum habitat thresholds, and therefore are already degraded. Taking more habitat will only make them more degraded. The “application of project design features are expected to minimize effects to NSO habitat and disturbance.” Design features are not going to put back habitat that has already been lost and created ACs below minimum habitat thresholds. They are utterly worthless for making these ACs functional, because they already aren’t functional. They need to be left alone. Since the ACs are already at take level, any further disturbance will increase the risk of take to NSO.

Furthermore, LRMP IV-100, Standard *-15 states “Formal consultation, requesting an incidental take permit be issued by the USFWS, is currently required to reduce suitable habitat below 500 acres within the 0.7 miles and/or below 1,340 acres within the 1.3 miles of nest or activity centers.” This LRMP standard is being violated which is a NFMA violation.

The SRNF did request formal consultation and did not request a take permit. The lawless FWS went along with this.

Prey

In the Determination section there is one line stating prey species are expected to return in the short term. Based on what? Because the SRNF says so? What are owls supposed to do for prey in the short term when the prey is displaced?

Post Habitat

The SRNF states foraging habitat will be maintained at 40% and N/R habitat at 60%. These are not the requirements for NSO habitat. Foraging habitat should be maintained at 60% and N/R habitat should be maintained at 80-90%. That is what the literature states. The SRNF proposes a logging and fuels project in an area that is already degraded and not functioning optimally for NSO. This project will only worsen a bad situation.

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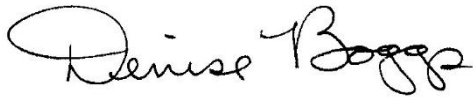
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Activity Centers

ACs 267 & 212 both have logging proposed in the core areas. The FS claims because they aren't logging the 100-acre nest groves all will be well. According to the maps 8 & 5 in App. A the project will log on both sides of AC 267 core; and log almost completely around the nest core of AC 212. Owls don't live in a 100-acre nest grove. They require other habitat in the AC to meet their life needs.

Remedy

Withdraw ACs 212, 267, 214, and 216 completely from the project. No logging in any core area or home range. We are utterly disgusted that neither the FS or the FWS disclosed that these ACs are already at "take" level. That's a big lie to the public. Both agencies can explain in court why they continue to do what they do.

A handwritten signature in black ink that reads "Denise Boggs". The signature is written in a cursive, flowing style.

Denise Boggs, Director

CC: Oliver Steifel, Attorney at Law