Western Watersheds Project

Boise Office
[redacted]

Working to protect and restore Western Watersheds and Wildlife

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VIA EMAIL: scnf_plan_rev@fs.fed.us

Re: SCNF LRMP Revision; Species of Conservation Concern

Dear Mr. Mark:

Thank you for this opportunity to comment on the Salmon-Challis National Forest (SCNF or Forest) plan revision, specifically the potential Species of Conservation Concern. Please consider the following comments and keep Western Watersheds Project (WWP) informed throughout the forest plan revision process.

WWP's staff and members are concerned with the management of national forests and public lands throughout Idaho, including the SCNF. We work throughout the West, advocating for watersheds, wildlife, and ecological integrity. The ongoing plan revision process affects our interest in the health and integrity of the sagebrush steppe, high desert, and forest environments of south-central Idaho. Our staff and members regularly visit the SCNF and enjoy the outstanding wildlife, wilderness, and recreational values the Forest provides.

Below we have identified our concerns the Potential Species list, as well as issues that must be analyzed in greater detail before the list is finalized. If you have any questions regarding these comments, please contact us for clarification.

General Concerns

As a general matter, WWP objects to the form in which the Forest has presented the list of potential species of conservation concern (SCC). Without some indication from the Forest as to how the plan will ensure the viability of native species and ecosystems in general, the public cannot determine whether the Forest proposed list of SCC is necessary or sufficient.

The National Forest Management Act (NFMA) "requires that national forest planning 'provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives.' " *Seattle Audubon Soc. v. Moseley*, 798 F. Supp. 1484, 1489 (W.D. Wash. 1992), *aff'd sub nom. Seattle Audubon Soc. v. Espy*, 998 F.2d 699 (9th Cir. 1993) (citing 16 U.S.C. § 1604(g)(3)(B)). "[W]hen the section is read in light of the historical context and overall purposes of the NFMA, as well as the legislative history of the section, it is evident that section 6(g)(3)(B) requires Forest Service planners to treat the wildlife resource as a controlling, co-equal factor in forest management." *Id.* (citing Charles F. Wilkinson & H. Michael Anderson, *Land and Resource Planning in the National Forests*, 64 Or. L. Rev. 1, 296 (1985)).

Consequently, the Forest Plan "must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity." 36 C.F.R. § 219.9(a)(1). The Forest Plan must also "include plan components, including standards or guidelines, to maintain or restore the diversity of ecosystems and habitat types throughout the plan area." 36 C.F.R. § 219.9(a)(2). And, the regulations specifically require plan components "to maintain or restore[] … [r]are aquatic and terrestrial plant and animal communities." *Id.*

In addition to these broad mandates, the regulations require species-specific plan components, including those addressing the conservation and management of species of conservation concern. The responsible planning official must "determine whether or not the plan components" discussed above "provide the ecological conditions necessary to[] … maintain a viable population of each species of conservation concern within the plan area." 36 C.F.R. § 219.9(b). "If the responsible official determines that the plan components … are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area." *Id.*

In short, species-specific plan components—including those addressing species of conservation concern—compliment, and do not replace or supplant, the Forest's general obligation under NFMA to "maintain" and "restore" the ecological integrity and diversity of native ecosystems and species across the planning area. Without knowing what the Forest plans to do to fulfill its general conservation mandate, the public cannot determine whether the proposed list of SCC is adequate. In any case, the Forest cannot disregard the viability of species not included on the final SCC list.

Before finalizing the list of species of conservation concern, the Forest must release to the public draft plan components designed to fulfill the mandates of 36 C.F.R. § 219.9(a)-(b). Finalizing the SCC list before releasing generally applicable plan components would put the proverbial cart before the horse, and deprive the public of a meaningful opportunity to comment on the forest planning process.

That said, WWP has serious concerns about the Forest's decision not to recommend bighorn sheep, gray wolves, westslope cutthroat trout, and the Columbia spotted frog as species of conservation concern.

Bighorn Sheep

Forest Service planning regulations define "species of conservation concern" as: "a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area." 36 C.F.R. § 219.9(c). In other words, SCC are species that are not listed under the ESA, but will not necessarily persist, even in thriving ecosystems.

The Forest must identify SCC even when threats to persistence occur primarily or entirely outside of the planning unit. 36 C.F.R § 219.9. This includes private lands.

The threats to bighorn sheep from domestic sheep grazing—both on and off Forest lands—have been well-documented by other Forest Service planning units. Bighorn sheep experts and wildlife managers uniformly agree that domestic sheep can transmit pathogens to bighorn sheep, which usually results in pneumonic disease die-offs in bighorn herds. The Forest Service described the risk of disease transmission from domestic sheep to bighorn sheep in a 2010 environmental impact statement (EIS) assessing the use of domestic sheep allotments on the Payette National Forest. U.S. Forest Service, Southwest Idaho Ecogroup Land and Resource Management Plans, Final Supplemental Environmental Impact Statement (2010) at xx, 3-6 to 3-12.1

The Payette EIS explained that domestic sheep can carry pathogens to which they are naturally immune, and transfer those pathogens to bighorn sheep if the species make contact. *Id*. at xx, 3-6 to 3-8. Bighorn are not immune to the pathogens, and contract deadly pneumonia if exposed. *Id*. The bighorn also transmit the pathogens to other members of the herd, resulting in partial or complete die-offs of bighorn populations. *Id*. If bighorn ewes survive the die-off, they pass the disease to their unborn lambs, which then die within weeks of birth. *Id*. at 3-7. Poor lamb recruitment can last for several years, preventing the bighorn population from recovering. *Id*.

The Payette analysis concluded that, although there were gaps in knowledge about the exact mechanism of disease transmission and die-offs, the evidence strongly supported keeping domestic sheep and bighorn sheep separate, particularly given the devastating impacts of disease and the lack of any science showing that bighorns can be grazed near domestic sheep without raising concerns about disease transmission. *Id*. at xxii, 3-14. In light of that risk, the Forest Service decided to close almost 70% of the Payette National Forest to domestic sheep grazing by 2013 to protect the nearby bighorn sheep populations. U.S. Forest Service, Record of Decision for the Final EIS and Forest Plan

Amendment Identifying Suitable Rangeland for Domestic Sheep and Goat Grazing to Maintain Habitat for Viable Bighorn Sheep Populations (2010) (Payette ROD) at 9-16. The rationale for closing allotments included the need to provide habitat to support a viable population of bighorn sheep and eliminating overlap of domestic sheep allotments with bighorn sheep core herd home ranges. *Id*. at 13.

Since the Payette analysis, studies have identified *Mycoplasma ovipneumoniae* as the primary pathogen transferred from domestic sheep to bighorn sheep that triggers pneumonia in the bighorns. Studies have also identified various strains of *Movi*. Bighorn herds that have been infected with one strain can be re-infected with a different strain that can cause further disease and die-offs.

Wherever domestic sheep and bighorn sheep graze the same range, the two species will, in all likelihood, come in contact. The two species are in the same genus, and both are gregarious. Thus they are attracted to each other and will seek each other out if in the same vicinity. In addition, bighorn sheep make long exploratory movements, called forays, traveling up to twenty miles or more from their home ranges to explore new habitat or find mates for breeding. Young rams in particular make long movements in the fall during the rut to look for mates. The presence of domestic ewes on the range during the bighorn rut makes contact between the species even more likely.

Domestic sheep will also stray from their band, sometimes traveling many miles from an allotment, and can remain on the landscape, unattended, for weeks or months. The steep rugged terrain used by both bighorn sheep and domestic sheep make it hard to spot bighorns or find stray domestics, and therefore it is unlikely contact would be observed in time to prevent a disease outbreak. For all of these reasons, bighorn sheep experts agree that large spatial separation between domestic and bighorn sheep is necessary to prevent disease transmission. It is therefore essential that the Forest discontinue domestic sheep grazing wherever contact could occur between the two species.

The Forest, moreover, must not attempt to unreasonably narrow the definition of "persist." The Forest Service has recently sought to define "persist," for planning purposes, as "not entirely wiped out." This definition is wrong, from both a semantic and legal perspective. The Federal District Court for the District of Idaho recently rejected the agency's interpretation of its species conservation mandate and held that NFMA prohibits any action that would "diminish the overall population of bighorn sheep throughout the Forest." *Western Watersheds Project v. U.S. Forest Service*, Case No. 1:17-CV-434-CWD (D. Idaho, Nov. 20, 2017).

Strict adherence to this ruling is especially critical given the limited range and slow recovery of bighorn sheep throughout the West. West-wide bighorn populations have been estimated at 75,000—down from historic estimates of 1.5 to 2 million. In other words, current populations represent only 5% of historic numbers. And approximately half of all bighorn herds overlap (occur on or partially on) 43 National Forest, including the Salmon-Challis. Thus, should the Forest Service continue its efforts to redefine

"persist," with respect to bighorn sheep, it will undoubtedly lead to an ESA listing, thereby violating both NFMA and the Forest Service's planning regulations.

As noted, the Forest must also consider threats to bighorn sheep outside the planning area, including on private land. In the last 18 months, potential contact with domestic sheep has occurred at least twice on private lands, and three bighorn sheep were shot.[1]

In comparing the Forest's SCC assessment for bighorn sheep with its SCC assessment for greater sage-grouse, one finds that the sage-grouse assessment takes a broad view that includes regional and west-wide population trends, long-term local trends, habitat changes, and climate change. The bighorn sheep assessment, in contrast, is narrow, short term, and focused entirely on central Idaho. The sage-grouse assessment notes that the "Sage Grouse's current overall distribution is … 56% of its potential pre settlement distribution." As noted, current bighorn sheep populations represent just 5% of the species' estimated pre-settlement numbers, and only one third of estimated historic distribution.

Finally, the Forest should not characterize depressed and imperiled bighorn sheep populations as "stable." Several bighorn sheep populations on the Salmon-Challis National Forest remain suppressed as a result of historic disease events occurring in the 1980s and '90s. The stagnant East Fork subpopulation was reduced by 95% following one such event, from approximately 600 in the 1990s to just 30 in 2012. The East fork herd's lamb-to-ewe ratio remains at 10:100, more than 4 times below the average for Rocky Mountain Bighorn Sheep, even 30 years after the initial die-off. This clearly reveals the long-term implications to bighorn sheep herds of exposure to livestock pathogens, as well as the Forest Service's error in using snapshot assessments, short term growth, or population "stability" to measure the likelihood of species persistence. The Forest has inexplicably characterized the East Fork subpopulation as "stable or increasing," even though references cited by the Forest in Section 6 of its Draft Assessment "suggest that populations falling below 30 animals have a high likelihood of extirpation."

The Forest's decision not to recommend bighorn sheep for SCC status appears indicative of a larger trend that has seen several planning units abandon sincere efforts to ensure bighorn sheep recovery. This contravenes both the letter and the spirit of NFMA, as well

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[1] *Bighorn Sheep Euthanized After Coming Into Contact with Domestic Sheep Near Challis*, IdahoNews.com, http://idahonews.com/news/local/bighorn-sheep-euthanized-after-coming-into-contact-with-domestic-sheep-near-challis; Mike Demick, *Press Release: Another Bighorn Euthanized After Contacting Domestic Sheep Near Challis*, Idaho Dep't of Fish and Game (April 17, 2017) https://idfg.idaho.gov/press/another-bighorn-euthanized-after-contacting-domestic-sheep-near-challis.

the Forest Service's 2012 planning regulations. The Forest must remedy these obvious defects by recommending bighorn sheep as a species of conservation concern, and by taking a broader view of population and habitat trends.

Gray Wolf

The Forest's decision not to recommend gray wolves as species of conservation concern likewise shows that the Forest has not sufficiently considered the full range of threats to the species' long-term viability.

Wolf populations in Idaho have declined substantially since 2009, when the statewide population was estimated at approximately 870 wolves. The estimate for the Idaho wolf population was 659 at the end of 2013, and State of Idaho no longer tracks overall wolf population numbers. *See* Jim Hayden, Wolf Statewide Report, January 1, 2016 to June 30, 2017, Idaho Department of Fish and Game (2017). Considering the publicly reported numbers of wolves killed in the 2015/2016 hunting and trapping season, it is likely that additional declines in the Idaho wolf population have occurred. Indeed, the Idaho Department of Fish and Game has admitted that monitoring of wolves is becoming increasingly difficult due to hunting and trapping activities. Jim Hayden, Wolf Statewide Report, Idaho Department of Fish and Game (2015).

Going forward, IDFG proposes to significantly reduce wolf numbers on Forest Service lands to "protect" elk populations. Meanwhile, IDFG has consistently ignored evidence that habitat, not predation, is limiting populations in some parts of Idaho. In fact, the unusually high elk population numbers observed in the 20th century appear to be a historical anomaly, with the combined effects of large wildfires and human interventions such as logging raising populations to an unsustainable level.

IDFG's predation management plans contemplate severe wolf population reductions of 75% or more, so long as ungulate population objectives are not being achieved. Because wolf predation is, in all likelihood, not causing ungulate population declines, IDFG will still continue killing wolves under its plans—precisely because wolf killing for "ungulate protection" doesn't work. IDFG's most recent Predator Management Plan for the Middle Fork Zone, for instance, proposes to reduce wolf populations by 60% from 2012 numbers. "Success," according to the Plan, will be based on elk population data.

Consequently, IDFG's management of wolves represents a significant threat to gray wolf viability in central Idaho. Indeed, IDFG management actions will continue to threaten wolf viability into the foreseeable future, even if the ecosystems that wolves depend on thrive. Accordingly, Forest must acknowledge this ongoing, long-term, Forest-wide threat by recommending wolves as a species of conservation concern.

In addition, the Forest should consider taking a more active role in wolf management within its boundaries. Federal agencies often delegate wildlife management to the states, claiming that "the states manage wildlife and federal land agencies only manage wildlife

habitat." But recent scholarship has shown that this worn maxim has little basis in law and even less in science. The Forest should consult the recent report, "Fish and Wildlife Management on Federal Lands: Debunking State Supremacy," by Martin Nie, Christopher Barns, Jonathan Haber, Julie Lurman Joly, Kenneth Pitt and Sandra B. Zellmer. The report, researched and written in part by Forest Service employees and contractors, concludes that "Federal land management agencies have an obligation, and not just the discretion, to manage and conserve fish and wildlife on federal lands." *See* Nie et al., *Fish and Wildlife Management on Federal Lands: Debunking State Supremacy*, 47 Environmental Law no.4 (2017).

Westslope Cutthroat Trout

It is entirely inappropriate that Westslope Cutthroat Trout have not been recommended as species of conservation concern, given the documented Forest-wide threats to inland native salmonids from pervasive livestock grazing.

As the Forest found in its Draft Assessment, "[l]ivestock grazing and roads appear to be the primary stressors [on aquatic ecosystems] on the Forest." Draft Assessment at 72. Livestock grazing, in particular, was found to be directly affecting surface and groundwater fluctuations, water quality, channel and floodplain dynamics, spring runout channel dynamics, and composition of groundwater-dependent ecosystems. *Id*. at 43. Grazing also affects aquatic ecosystems indirectly, through diversions and dam construction, road construction and maintenance, stream crossings, invasive plants, and wildfire.

Overall, riparian vegetation on the Forest is in poor condition. The Draft Assessment explains that out of a total 6,367 miles of perennial stream, 72 percent showed a large or significant departure from the natural range of variation, 22 percent were outside the natural range but showing a positive trend, and only 6 percent were within. Out of 7,813 miles of intermittent stream, 83 percent showed a significant or large departure.

Channel and floodplain dynamics fare little better, with only 33 percent of the forest within the natural range of variation. In addition, PIBO effectiveness monitoring data shows that "there is a significant downward trend in the physical habitat integrity index over the last 20 years," with important watersheds like the Little Lost River, Big Lost River, and Upper Middle Fork trending downward.

Finally, water quality on the Forest is generally poor, with only 41 percent of the Forest within the natural range of variation. "In total, there are 638 miles of streams on the Salmon-Challis that do not meet water quality standards" due to excessive nutrient levels, excessive sediment levels, and high water temperatures. The Upper Salmon, Lemhi, and Pashimeroi rivers contain concerning levels of *E. coli* and fecal coliform bacteria.

The Forest should consider scientific evidence showing that current levels of livestock use are incompatible with the long-term maintenance of riparian and aquatic habitats in

the intermountain West. Belsky et al. (1999) found that "[l]ivestock grazing … negatively affect[s] water quality and seasonal quantity, stream channel morphology, hydrology, riparian zone soils, instream and streambank vegetation, and aquatic and riparian wildlife." A.J. Belsky, et al., *Survey of Livestock Influences on Stream and Riparian Ecosystems in the Western United States*, 54.1 Journal of Soil and Water Conservation 419-31 (1999). The same study found "no positive environmental effects" from livestock grazing. *Id*. Grazing has also been shown to negatively impact water quality. Derlet et al. (2010) found that "summer cattle grazing on federal lands affects … overall water quality … as cattle manure is washed into … lakes and streams or directly deposited into these bodies of water." Robert W. Derlet et al., *Reducing the Impact of Summer Cattle Grazing on Water Quality in the Sierra Nevada Mountains of California: A Proposal*, 8.2 Journal of Water & Health 326-33 (2010).

By adopting INFISH in 1995, the Forest Service committed to reducing impacts from grazing to inland native fish, including Westslope Cutthroat Trout. However, At public meetings following the release of the Draft Assessment, the Forest stated that PACFISH and INFISH — especially the PACFISH/INFISH riparian management objectives (RMOs) — were inappropriate for many streams on the Forest. Forest staff also implied that the PACFISH/INFISH standards would be repealed. If the revised Forest Plan lacks the strong protections of PACFISH/INFISH, it will undoubtedly fail to ensure the long-term viability of inland native fish populations. It is therefore essential that these iconic species, including Westslope Cutthroat Trout, be recommended as species of conservation concern.

Columbia Spotted Frog

As noted, riparian and stream ecosystems are among the most threatened in the intermountain West, and livestock grazing has been identified as the greatest threat to stream integrity in arid regions. The U.S. Fish and Wildlife Service has therefore concluded that grazing is detrimental to Columbia spotted frog habitat. Grazing changes the hydrologic function of springs and streams, lowering the water table and causing streamside habitats to shift from wet meadow vegetative communities to upland vegetative communities. Isolated populations of amphibians are particularly susceptible to habitat modification, and fragmentation of habitat may be one of the most significant barriers to Columbia spotted frog recovery and persistence. In addition, livestock congregation, especially and developed sites, can facilitate the spread of invasive plants, which in turn change ecological processes and degrade riparian habitats.

Given these threats, along with the impacts of climate change, there is "substantial concern" about native amphibians' "capability to persist over the long-term in the plan area." 36 C.F.R. § 219.9. The Forest should therefore recommend the Columbia spotted frog as a species of conservation concern, and commit to protecting and restoring riparian habitats that have been severely damaged by decades of ecologically inappropriate livestock grazing.

Conclusion

Thank you again for this opportunity to submit comments on the Forest's Potential Species of Conservation Concern. Please keep WWP informed of any new developments in the SCNF Forest Plan revision process. If you have questions or would like to discuss any of these issues further, please contact me at [redacted] or [redacted]

Sincerely,

/s/ Scott Lake

Scott Lake
Idaho Director
Western Watersheds Project
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