

**Attachment 1: Issues Reviewed and Affirmed
Cleveland NF Revised LMP Appeal Decision**

Table of Contents

NATIONAL ENVIRONMENTAL POLICY ACT..... 1

Cumulative Effects..... 1

 Effects on Watersheds and Soil 1

 Effects on Vegetation and Species..... 1

Environmental Consequences..... 2

 Effects on Inventoried Roadless Areas 2

 Effects of Off-Highway Vehicle Use..... 3

 Effects on Vegetation and Species..... 4

 Impacts on Water Quality, Hydrology, and Soils 7

 Impacts on Air Quality and Global Warming..... 8

 Effects of Chemical Use on Biodiversity, Watersheds, and Soil resources..... 9

 Effects of Fire Management..... 9

 Diameter Limits and Effects of Post-fire salvage logging..... 11

 Social and Economic Considerations..... 11

Response to Comment 11

Public Disclosure..... 13

 Changes Between Draft and Final 13

Incomplete or Unavailable Information 14

 Acreage of Fuels Management by Vegetation Type..... 14

 Control of Invasive Animals..... 15

Range of Alternatives 15

NATIONAL FOREST MANAGEMENT ACT 17

Management Direction - Goals & Objectives..... 17

Management Direction 18

 Water Quality and Soils 18

 Air 19

 Species Viability 19

 Invasive Species and Executive Order 13112..... 20

 Livestock Suitability and Capability..... 21

 Recreation Resource 22



Management Direction - Scientific Basis	23
Rare Communities	23
Livestock Suitability	24
Fish and Wildlife Resources	24
Species Viability	24
Management Indicator Species	26
Monitoring and Evaluation	27
Wilderness Designation	28
Evaluation of Roadless Areas	28
Research Natural Areas (RNA)	29
ENDANGERED SPECIES ACT	29
WILD & SCENIC RIVERS ACT	32
Forest Plan Protection of Eligible Rivers	32
Wild and Scenic River Suitability	32
Record Does Not Support Eligibility Findings of Certain Rivers	33
Pine Valley Creek	33
EXECUTIVE ORDER 12898—ENVIRONMENTAL JUSTICE	33



Attachment 1: Issues Reviewed and Affirmed

Cleveland NF Revised LMP Appeal Decision

NATIONAL ENVIRONMENTAL POLICY ACT

Cumulative Effects

Effects on Watersheds and Soil

Appellant contends the FEIS fails to adequately consider the cumulative impacts of the Forest Plan on watersheds and soil (NOA #0012, pp. 188-189).

I disagree. The direct, indirect, and cumulative effects of proposed management activities on the water and soil resources are adequately disclosed (FEIS, Vol. 1, pp. 399, 400, 426-451; See also FEIS – Vol. 1, pp. 394, 397 and AR #3.7.28.1 Surface Water and Riparian Assessment - Southern California National Forests, pp. 1-94). Site-specific analysis is required before management activities, such as fuel, livestock grazing, or vegetation treatments, are implemented and will provide a more complete view of actual impacts to watersheds, water quality, and soils. In general, the cumulative effects discussions focus on how the alternative forest plan decisions may influence activity trends not specific effects of future projects (FEIS – Vol. 1, p. 313).

As discussed in the record, “Watershed conditions, or watershed health, on the four southern California Forests vary depending upon amount of disturbance that has occurred within each watershed and the effect of disturbances on the natural integrity of the watershed as a whole” (AR #3.7.28.1 Surface Water and Riparian Assessment - Southern California National Forests, pp. 30-31). “Potential cumulative effects on water, riparian, and aquatic resources resulting from past, current, and future management are based on the total amount of disturbance and a watershed's inherent ability to absorb additional disturbance to its biological and physical elements and processes” (FEIS – Vol. 1, p. 399). Further, the record states “The severity of effects is influenced in part by the local terrain, fire regime, precipitation, and potential geological hazards” (AR #3.7.28.1 Surface Water and Riparian Assessment - Southern California National Forests, pp. 30-31). I find that the FEIS analysis adequately discloses cumulative effects of management activities on watersheds, water quality, and soils and is in compliance with NEPA regulations requirements at 40 CFR 1508.7.

Effects on Vegetation and Species

The appellant also contends the FEIS violates NEPA because it fails to adequately consider cumulative impacts of the Plan to vegetation and species (NOA #0012, pp. 162-164). The direct, indirect, and cumulative effects of proposed management activities, on vegetation and species, are adequately disclosed (FEIS Vol. 1 pp. 314-321, 321- 323, 323-327, 394-409, and 425-426; AR #4.4.3.1 Species Accounts). Detailed discussions that evaluate past, present, and reasonably foreseeable actions on terrestrial species (Vol. 1, p. 397), aquatic species (Vol. 1, pp. 399 and 400), species at risk (Vol. 1, p.400), game species (Vol. 1, p. 405), and management indicator species (MIS) (Vol. 1, p.406) are also presented in the FEIS. I find that the FEIS analysis adequately discloses the effects, including cumulative effects, of management activities on



vegetation and species and is in compliance with NEPA regulations requirements at 40 CFR 1508.7.

Environmental Consequences

Effects on Inventoried Roadless Areas

Appellant variously contends the FEIS and ROD fail to analyze effects of allocating inventoried roadless areas to land use zones that allow road construction and other development (NOA #0012, pp. 16-20).

During the course of this appeal review, the District Court for the Northern District of California issued an Opinion and Order directing that "the [2005] State Petitions Rule is set aside and the [2001] Roadless Rule, including the Tongass Amendment, is reinstated." The Court further provided that "Defendants are enjoined from taking any further action contrary to the Roadless Rule without undertaking environmental analysis consistent with this opinion." Two days later, in an effort to effectuate the Court's Order, the Chief of the Forest Service issued a directive instructing that Forest Service units should "not approve any further management activities in inventoried roadless areas that would be prohibited by the 2001 Roadless Rule."

With the 2001 Roadless Rule operative at this time, appellants' concerns regarding management allocations that could allow future road construction are largely moot. The 2001 Rule made clear that, absent certain exceptions, the prohibitions established by the Rule would override otherwise applicable forest plan direction. Further, the rulemaking clarified that implementation of the 2001 Rule would not require plan amendment or revision, although local officials could consider such measures on a case-by-case basis. Nevertheless, I have examined the issues raised concerning the allocation of the inventoried roadless areas and conclude that the procedures, analysis and allocations were appropriate at the time the ROD was issued.

The Forest Service has adopted a staged decision-making process ". . . composed of discrete parts (Strategic Plan, land management plans, project and activity plans) joined to form a rational, logical management approach" (FSM 1903.1). The Forest Land Management Plan (LMP) is entirely strategic, establishing desired conditions, suitable land uses and management direction under which future decisions are made. The Revised LMP does not authorize, compel, or fund any site-specific project activity (FEIS—Vol. 1, pp. 6-7, 16, 18; FEIS—Vol. 2, p. 565 (Public Comment (PC) 4575)). Environmental analysis is required at each stage of decision-making and ". . . should be appropriate to the decision being made and the risks associated with that decision" (FSM 1903.3). NEPA regulations call for environmental impact statements that are "analytic rather than encyclopedic" with impacts "discussed in proportion to their significance" (40 CFR 1502.2(a) (b)).

The Forest conducted an appropriate and adequate level of analysis, commensurate with the decision being made. The effects analysis in the FEIS discusses environmental consequences according to the natural, social, or economic element being affected (FEIS—Vol. 1, p. 313). Although there is no section specifically titled "Roadless Areas," the effects of non-wilderness



land use designation on the inventoried roadless areas are disclosed. The Forest states explicitly that development in roadless areas assigned to management zones other than Recommended Wilderness would potentially shift the setting of those individual areas toward a semi-primitive motorized experience, altering the range and distribution of recreation opportunities across the national forest (FEIS—Vol. 1, pp. 510, 516).

The FEIS—Vol. 1, chapter 3 further provides extensive discussion of the direct, indirect, and cumulative effects of roads and motorized trails on biological diversity (pp. 350-356, 365-371, 394-409), invasive species (pp. 418-420, 425-426), watersheds (pp. 435-436, 442-444), soils (pp. 446-447), air quality (pp. 453-454, 456), heritage resources (pp. 484-485), Tribal and Native American interests (pp. 495), recreation (pp. 499-500, 511-512, 516-517), wilderness (pp. 519-520), landscape management (pp. 524-526), law enforcement (pp. 532-533), and wildland fire and community protection (pp. 586-587).

Regardless of land use allocation, it is clear the Forest will focus road management on the maintenance and improvement of the existing transportation system and anticipates minimal, if any, additional road construction (ROD, p. 1; FEIS—Vol. 1, pp. 48, 351; AR #3.5.2.17, p. 36). Proposals for site-specific projects, including road construction, are evaluated in appropriate site-specific decisions and must be consistent with forest plan direction (FEIS—Vol. 2, p. 565 (PC 4547)). Furthermore, the Forest recognizes the additional analysis required to assess the effects of site-specific proposed projects on the roadless character of inventoried roadless areas (ROD, p. 8; FEIS—Vol. 1, p. 280; FEIS—Vol. 2, p. 422 (PC 9783), pp. 471-472 (PC 2249), p. 474 (PC 2179), p. 483 (PC 2288); AR #3.5.2.17, p. 4).

The allocation of inventoried roadless areas to land use zones that allow road building does not constitute an irretrievable or irreversible commitment of resources. I find that the Forest conducted an appropriate effects analysis and adequately disclosed the effects of the decision on inventoried roadless areas consistent with NEPA and the staged decision-making process used by the Forest Service.

Effects of Off-Highway Vehicle Use

Appellant contends the FEIS does not adequately discuss the impacts and mitigation for off-road vehicle use (NOA #0012, pp. 42-45). To the contrary, the record includes more than adequate discussion of the impacts of off-highway vehicle (OHV) use relative to the limited nature of the decision being made (see discussion regarding staged decision-making above).

Proposals for individual projects, such as trail construction or relocation, will be evaluated in appropriate site-specific analysis (FEIS – Vol. 1, p. 7; FEIS – Vol. 2, p. 565 (PC 4547)). The Forest describes these effects on numerous resources, including biodiversity (FEIS – Vol. 1, pp. 350-356 and 365-371), invasive species (FEIS – Vol. 1, pp. 418-420), watershed conditions (FEIS – Vol. 1, pp. 435-436), soils (FEIS – Vol. 1, pp. 447-448), and infrastructure (FEIS – Vol. 1, pp. 545-553).

Design standards (mitigation measures) are identified which address potential OHV impacts on plants and wildlife (FEIS – Vol. 1, pp. 366-371). The Revised Plan (Part 3, Appendix A) identifies relevant laws, regulations, agreements and other management direction (Revised LMP,



Part 3, pp. 71-82). Design standards applicable to OHV use are also found in the Revised Plan (Revised LMP, Part 3, pp. 6–11). Accommodating recreation use within the capacity of the land to support it is identified as a desired condition under Goal 3.1 - Provide for Public Use and Resource Protection (Revised LMP, Part 1, p. 34). This section also calls for an emphasis on natural resource protection through increased regulation of recreation use.

In addition, the Forest identifies Place-based program emphases which address mitigation of OHV impacts (Revised LMP, Part 2, pp. 33-69). Strategies and tactics for addressing capacity and use conflicts are specifically addressed (Revised LMP, Part 2, pp. 103, 108-109) and those regarding the road and trail system and OHV opportunities are identified under Trans 1, 3 and 4 (Revised LMP, Part 2, pp. 108-109).

I find the FEIS complies with NEPA as well as direction found in 36 CFR 219.21 (g) and 295.2 (b).

Effects on Vegetation and Species

Appellant variously contends the FEIS fails to disclose and adequately analyze impacts of the Revised LMP on vegetation and wildlife (NOA#0012, pp. 92-93, 96-98, 100-101, 106, 118-119, and 122-159).

The NEPA implementing regulations specify that the discussion of environmental consequences in a NEPA document "...will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity..." and will "...include discussions of (a) direct effects and their significance; (b) indirect effects and their significance... (d) the environmental effects of alternatives..." (40 CFR 1502.16). Such discussion "... must be sufficient to permit an informed selection of the preferred alternative. . ." (FSM 1922.14) The NEPA regulations state, "NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail" (40 CFR 1500.1(b)).

The appellant contends that, "The FEIS fails to clearly disclose and appropriately analyze impacts of the Plan on vegetative communities and associated species of at-risk wildlife and plants" (NOA #0012, pp. 125-130). The FEIS discloses the effects of management activities on vegetation (FEIS - Vol. 1, pp. 313-327) and biodiversity, including species at-risk (FEIS - Vol. 1, pp. 327-395 and FEIS - Vol. 2, Appendix B; See also AR #4.4.3.1, Species Accounts - Animal; Revised LMP - Part 3 pp. 6-10 and Appendix D).

Appellant contends that "the FEIS fails to fully disclose and take a hard look at certain impacts to vegetation and species from motorized roads and trails and recreation activities" (NOA #0012, p. 126-128). To the contrary, effects to vegetation and species from roads (FEIS – Vol. 1, pp. 350-354), motorized trail system (FEIS – Vol. 1, pp. 354-356), recreation management (Vol. 1, pp. 344-348), and non-motorized trails (Vol. 1, pp. 356-359) are adequately disclosed. Effects to biological diversity are summarized in the viability outcomes, and express the likelihood of persistence for any given species under each alternative (FEIS – Vol. 1, pp. 380-382, 385-392; FEIS – Vol. 2, Appendix B). Tables in the Affected Environment section of the FEIS (e.g.,



Table 106, p. 282; Table 359, p. 284; and Table 455, p. 284) quantify the amount of use that can be expected from recreational activities, including motorized and non-motorized trails (See also FEIS – Vol. 2, pp. 91-105). I find that impacts to vegetation and species from motorized roads and trails and recreation activities are adequately presented in the FEIS and comply with NEPA requirements at 40 CFR 1502.16.

Appellant also contends “the FEIS fails to clearly disclose and take a hard look at certain impacts to vegetation and species from fire and fuels management” (NOA #0012, pp. 130-145). Effects from fire and fuels management on vegetative condition are adequately disclosed in the FEIS (Vol. 1, pp. 207, 208, and 314-321). For example, impacts of proposed fuel treatments in chaparral are discussed numerous times in the FEIS (Vol. 1, pp. 195, 318, 319, 320, 330, 332, 333, 378, 379, 430, and 487). Additionally, the Revised LMP contains monitoring requirements related to monitoring the effects of fuel treatment on vegetation condition. Specifically, monitoring question for Goal 1.2.2. asks the question: “Is the forest making progress toward maintaining or increasing the percentage of chaparral and coastal sage scrub in Condition Class 1?” (Revised LMP – Part 3, p. 58; FEIS - Vol. 1, p. 72). Comparisons of acres of the various vegetative community types that occur within the wildland/urban interface by national forest, and relative comparisons of the hazardous fuel program by national forest are displayed in Table 555 (FEIS Vol. 1, p. 314) and Table 534 (p. 316) respectively. I find the FEIS does reflect a “hard look” at the effects of fire and fuel treatments on different vegetation types and contains an adequate level of analysis, commensurate with the decision being made. The FEIS complies with NEPA requirements at 40 CFR 1502.16.

Appellant contends the FEIS fails to adequately analyze the direct, indirect, and cumulative effects of fuels treatments on individual species such as the California spotted owl, San Bernardino flying squirrel, southern rubber boa, San Gabriel mountain slender salamander, large blotched salamander, California gnatcatcher, Belding’s orange-throated whiptail, and many stemmed dudleya (NOA #0012, pp. 92-119, 130-145). The effects of fuels management (and other proposed management activities) and design criteria intended to minimize detrimental effects (including cumulative effects) on the California spotted owl are analyzed in numerous locations throughout the FEIS and the record (FEIS - Vol. 1, pp. 129,167, 173, 178, 319, 332-334, 336, 341-343, 350, 354, 359-360, 367, 375-377, 391, 393-394, 397, 404-406, 408; AR #4.4.3.1, Species Accounts - Bird, pp. 227-259). Similar information is presented for the San Bernardino flying squirrel (FEIS Vol. 1 pp. 152, 171, 176, 370, 385, 392, 404-405; AR #4.4.3.1, Species Accounts – Mammal, pp. 1127-1142), southern rubber boa (FEIS Vol. 1 pp. 153, 172, 176, 371, 385, 392, 404-405; AR #4.4.3.1 Species Accounts – Reptile, pp. 1402-1412), San Gabriel mountain slender salamander (FEIS Vol. 1 pp. 152, 166; AR #4.4.3.1, Species Accounts - Amphibian, pp. 93-97), large blotched salamander (FEIS Vol. 1 pp. 152, 166; AR #4.4.3.1, Species Accounts – Amphibian, pp. 67-72), California gnatcatcher (FEIS Vol. 1 pp. 151, 166, 173, 222, 321, 338, 367, 391, 440, 567; AR #4.4.3.1, Species Accounts - Birds, pp. 205-219), Belding’s orange-throated whiptail (FEIS Vol. 1 pp. 172, 176, 338, 370, 392; AR #4.4.3.1, Species Accounts - Reptile, pp. 1299-1305), and many stemmed dudleya (FEIS Vol. 1 pp.141, 156; AR #4.4.3.1, Species Accounts - Plants, pp. 879-883; See also FEIS - Vol. 2 Appendix B; FEIS - Vol. 3, Appendix H; AR #4.4.2.3 Biological Assessment (BA)). Revised LMP management direction to protect species viability is discussed under the NFMA – Management Direction section of this attachment.



The appellant's desire for the FEIS to quantify the amount of California spotted owl, San Bernardino flying squirrel, large blotched salamander, and the southern rubber boa habitat that will be impacted or identify numbers of individuals that might be affected by fuels treatments (NOA #0012 p. 92, 98, 100, and 101 respectively) is not practical or feasible at the land management plan level. Impacts to specific species are more effectively evaluated at the site-specific project level. The FEIS analysis considers the environmental effects of fire and fuel treatments on the species mentioned above, and provides adequate mitigation measures to minimize detrimental effects. I find no violation of NEPA requirement at 40 CFR 1502.16.

The appellant also contends the FEIS fails to analyze the impacts of using herbicides for fuel treatments on species (NOA #0012, p. 106, 133). Four pesticides are proposed for WUI maintenance (see FEIS – Vol. 2, Table O-1, p. 671). Appendix O, Pesticide Risk Assessment, summarizes the potential effects of the four pesticides on birds, mammals, fish, and invertebrates (including aquatic invertebrates) (FEIS – Vol. 2, pp. 675-677; FEIS – Vol. 1, p. 233). Discussion in the FEIS explains that “impacts on a species or group of species can often be avoided or reduced through the proper selection of chemical and surfactant and by considering the season of use and application methodology (Vol. 1, p. 233; See also FEIS – Vol. 2, Appendix O. Pesticide Risk Assessment). The Revised LMP does not make any decisions about where or when pesticide use occurs. Projects proposing the use of pesticides (including herbicides) will require site-specific environmental analysis (FEIS – Vol. 1, p. 7, 233; Vol. 2, Appendix O. p. 669; CNF ROD, p. 10). The FEIS contains an adequate level of analysis, commensurate with the decision being made, and complies with NEPA requirements at 40 CFR 1502.16.

The appellant contends the FEIS fails to adequately disclose and take a “hard look” at certain impacts of commercial uses of the forest including livestock grazing and mining, on species and vegetative communities (NOA #0012, pp. 145-147, 157-158). Chapter 3 of the FEIS discloses the effects of livestock grazing on vegetation condition, including impacts on coastal sage scrub (Vol. 1, p. 321-322), meadow/grasslands (Vol. 1, p. 323), oak woodlands and riparian areas (Vol. 1, pp. 322-323, 568), and analyzes effects on biodiversity (Vol. 1, pp. 360-373). “Under all alternatives, when permits for allotments and grazing areas are issued, site-specific analysis of the degree of impact(s) would be conducted and appropriate management actions required and implemented” (FEIS – Vol. 1, p. 363). Additional effects to vegetation and species from commercial uses and non-recreation special uses management are analyzed (e.g., FEIS – Vol. 1, pp. 362-363, 373-376, 437, 438, 439, 449; FEIS – Vol. 2, Appendix B: Species Viability, General Direct and Indirect Effects to Plants and Animals). Proposals for site-specific projects, such as mining or livestock grazing, will be evaluated in a site-specific analysis and appropriate management actions required and implemented (FEIS—Vol. 1, p. 7, 313, 363, 439).

The appellant further contends “The FEIS fails to properly disclose the effects of livestock grazing on biological Crusts . . .” (NOA #0012, p. 151). The impacts of livestock grazing on soils, including effects to biological crusts, are discussed in the sections ‘Effects of Livestock Grazing on Biodiversity’ (FEIS – Vol. 1, p. 362) and the ‘Effects of Livestock Grazing on Soils’ (FEIS – Vol. 1, pp. 448-449) of the FEIS (See also FEIS –Vol. 2, p. 707). Specifically, regarding impacts from grazing on soil crusts, the analysis discloses that “There are a few sites where soil crusts exist on the national forests in southern California. . . The impact to soil crust from grazing can be adverse, but if managed properly based on soil type, timing, etc. a healthy



soil crust can be maintained” (FEIS – Vol. 1, p. 449; See also FEIS – Vol. 2, p. 574 (PC 2575); Revised LMP - Part 3, p. 11, and Appendix A, p. 18, FSM 2200 Range Management and 2550 Soil Management; Revised LMP - Part 2, p. 95, WAT 1). The degree and location of the effects of livestock grazing are identified in a site-specific analysis and not at the forest plan level (FEIS – Vol. 1, p. 439). I find that the FEIS does reflect a “hard look” at the environmental effects of the limited strategic decisions made in the land management plan with regard to impacts of commercial uses on species and vegetative communities. The FEIS analysis complies with NEPA requirements at 40 CFR 1502.16.

Impacts on Water Quality, Hydrology, and Soils

Appellant contends the FEIS fails to “fully disclose the impacts of the Plan on water quality, hydrology, and soils” (NOA #0012, pp. 175-188). The appellant also contends the FEIS fails to fully disclose and take a hard look at impacts to water and soils from several activities including motorized roads and trails, recreational activities, fire and fuels management, vegetation treatments, and commercial uses including livestock grazing, and differences between the alternatives are not quantified (NOA #0012, pp. 179-187).

The existing condition of watersheds, including water quality, hydrology and soils is presented in the Affected Environment section of the FEIS (Vol. 1, pp. 196-216; AR #3.7.2.8.1, Surface Water and Riparian Assessment – Southern California Forests) Table 123 in the FEIS (Vol. 1, p. 199) provides condition rating for the 88 fifth-level watersheds that comprise the four southern California national forests. The direct, indirect, and cumulative effects to watershed condition and soils are presented in the FEIS (Vol. 1, pp. 426-451). Potential effects to watershed condition from management activities are displayed for each alternative (FEIS – Vol. 1, p. 429). These comparisons are based upon projected quantities (i.e. miles of roads and trails, acres of treatments, etc.) by alternative. Potential impacts from vegetation management (pp. 430, 445-446); recreation (pp. 433-434, 446); roads and trails (pp. 435-436, 446-448); and fire and fuels treatments (pp. 440-442, 450) on water and soil resources are adequately disclosed. In addition, discussion in Chapter 3 explains, “Because of forest-to-forest variability in vegetation types selected for treatment, this analysis must be viewed in the broadest terms. Many factors enter into site-specific and forest-specific decisions concerning where and when treatments will occur, including vegetation type and age; the presence of threatened, endangered and sensitive species; the degree of cooperation with local fire-safe councils and landowners; and the risk of catastrophic fire based on vegetation structure and age” (FEIS – Vol. 1, p. 316).

The FEIS – Vol.1, Chapter 3 analysis thoroughly discloses impacts from commercial activities, including potential effects from livestock grazing, mining, and non-recreation special uses, on water (pp. 208, 426-430, 436-440, 442-444) and soil resources (pp. 362, 444-445, 448-449, 450-451). Additional effects of management activities on surface water (FEIS – Vol. 1, pp. 199-205), riparian resources (FEIS - Vol. 1, pp. 205-209) and groundwater resources (FEIS - Vol. 1, pp. 209-214) are evaluated. Contrary to the appellant’s contention, the FEIS does reflect a “hard look” at the environmental effects of the limited strategic decisions made in the land management plan with regard to impacts to water quality, hydrology, and soils, and the analysis complies with NEPA requirements at 40 CFR 1502.16.



Appellant contends the FEIS fails to "provide any quantitative data about the baseline and projected effects of livestock grazing on erosion and sedimentation rates, structural modification of streambanks, riparian vegetation, stream temperatures, etc" (NOA #0012, pp. 185-186). The FEIS – Vol. 1 discussion notes, "The degree and location of the effects of livestock grazing are identified in a site-specific analysis and not at the forest plan level" (p. 439), and the degree of soil resource disturbance from grazing and mining is expected to be directly related to the number of acres allocated to the particular use (p.448). The agency's response to a public comment notes that the analysis in the FEIS was clarified and standards contained in Part 3 of the Revised LMP were revised (see standards S11, S12, S27, S47, S51, S53, S54, S55, S56) to better respond to impacts of livestock grazing on biodiversity, soils, watershed, and invasive species (FEIS – Vol. 2, p. 576 (PC 2626)). I find the FEIS analysis of the impacts of commercial uses, including livestock grazing, mining, and non-recreation special uses, on water and soil is adequate and in compliance with NEPA requirements at 40 CFR 1502.16.

Impacts on Air Quality and Global Warming

Appellant contends the FEIS fails to adequately disclose the impacts of the Revised Plan on air quality and global warming (NOA #0012, pp. 202-205).

Air quality impacts are not identified as a significant issue that shaped the Revised LMP alternatives (FEIS—Vol. 1, p. 13). However, air quality is evaluated in the FEIS, and the direct, indirect, and cumulative effects of management activities on National Forest System (NFS) lands on the air resource are adequately disclosed (FEIS—Vol. 1, pp. 220-221, 451-456). Discussion in the FEIS explains, "None of the alternatives considered are expected to substantially change the existing long-term, large scale, forest-wide ambient air quality" (FEIS—Vol. 1, p. 452). However, ongoing national forest management activities such as prescribed fire and recreational vehicle travel mileage do have the potential to adversely impact short-term, local air quality and regional visibility and ozone concentrations (FEIS—Vol. 1, p. 452). Table 233 and related discussion compare the impacts of the different alternatives on air quality emissions from ongoing national forest uses (FEIS—Vol. 1, pp. 452-453). The record demonstrates the Forest thoroughly reviewed and considered air pollution data, including vehicle emissions data, in the analysis (A.R. #3.7.1.5, pp. 24-30). Finally, the agency provides a detailed response that explains the air quality analyses and comparisons presented in the effects analysis (AR #4.4.3.8, Errata for Public Documents, pp. 3-4 (PC 9995)).

The appellant is concerned that the FEIS fails to disclose the impacts of the Revised Plan on global warming. Discussion in the FEIS explains that global warming was a concern raised during public involvement; however, the explanation states that this concern is outside the scope of decisions made in a land management plan (Vol. 1, p. 13). At the time of the LMP revision, there was no Forest Service policy on global warming. Furthermore, there is no scientific consensus on global warming at the land management planning scale because the science is continually evolving. However, the revised forest plans are designed so that managers have the flexibility to adapt management strategies to the constantly changing demands that are inherent to natural resource management (Revised LMP – Part 1, p. 1). These factors are considered in my decision.



I find that the analysis adequately discloses effects of management activities on air quality and is in compliance with the NEPA requirements at 40 CFR 1502.16. Further, the FEIS correctly explains that global warming is a concern outside the scope of the decision made in the Revised LMP.

Effects of Chemical Use on Biodiversity, Watersheds, and Soil resources

Appellant contends the FEIS does not adequately analyze the extent of the impacts of chemical use to control and eradicate invasive species on biodiversity, watersheds, and soil resources (NOA #0012, pp. 193-195). The Pesticide Risk Assessment explains that projects proposing the use of pesticides (including herbicides) will require site-specific environmental analysis, documented in the appropriate NEPA document (FEIS – Vol. 2, Appendix O. p. 669, 672; FEIS – Vol. 1, p. 233). The Revised LMP does not make any decisions about where or when pesticide use occurs. The Regional Forester states, “We will carefully evaluate and disclose the exact type and extent of herbicide use when it is a factor in any project level analysis and decision” (ROD, p. 10). Discussion in the FEIS explains that “impacts on a species or group of species can often be avoided or reduced through the proper selection of chemical and surfactant and by considering the season of use and application methodology (Vol. 1, p. 233; See also FEIS – Vol. 2, Appendix O. Pesticide Risk Assessment). I find that the direct and indirect effects of pesticide use on water and soil resources and biodiversity (FEIS – Vol. 2, Appendix O, pp. 670-675, 675-677; FEIS – Vol. 1, pp. 208, 233, 441, 491, and 492) are adequately disclosed and the FEIS analysis complies with NEPA requirements at 40 CFR 1502.16.

Effects of Fire Management

Appellant contends the fire management portions of the Plan do not adequately analyze indirect effects and cumulative effects. These include effects of fire policy on wilderness and Inventoried Roadless Areas; sufficient comparative evaluation of fire risks associated with Alternatives 4a and 6; effects of urban sprawl and changes in fire intensity; and how implementation of Wildland Fire Use (WFU) may reduce fire rate of spread and resistance to control (NOA #0012, pp. 206-208, 218).

The Forest discloses the impacts of historic and ongoing fire suppression under the section Wildland Fire and Community Protection (FEIS – Vol. 1, pp. 306-312). “Southern California national forests are artificially dense and ...highly impacted by air pollution, leading to greater mortality than would likely have occurred under pre-settlement stand conditions” (FEIS – Vol. 1, pp. 30, 84-87, 91, 102, 129, and 194). “Current conditions in many areas of southern California wilderness reflect years of wildland fire suppression that has led to higher than normal vegetation densities. The exclusion of fire has resulted in vegetation conditions that are outside of the historical range of variability (FEIS – Vol. 1, pp. 265-266).

Fire suppression is acknowledged as having had an effect on wilderness areas. “Fire exclusion as a result of effective wildfire suppression may have contributed to stand densification in mixed conifer forests within some wilderness areas” (FEIS – Vol. 1, p.110). National fire policy provides general guidance and does not specify any suppression or WFU tactic for any given area.



The southern California forests acknowledge that because of fire risks to human habitation, no difference exists between alternatives, including 4a and 6. “All alternatives emphasize implementation of the National Fire Plan (NFP) in WUI areas. Each alternative implements key aspects of the NFP, and while there are variations in the implementation and the effects of these alternatives, these differences are not significant” and considered common to alternatives (FEIS – Vol. 1, p. 32). Further, a discussion of fire issues is provided within each alternative (FEIS – Vol. 1, pp. 314-321).

In response to urban sprawl “The community protection and vegetation management program emphasis and focus are on the implementation of the NFP in WUI areas. These WUI areas are being refined as Community Wildfire Protection Plans are developed” Revised LMP – Part 1, p. 46). The present fire regime is out of balance, and the threat of wildland fire and risks to humans are increasing (Revised LMP, Part 1, pp. 25-27).

The Revised Plan sets the strategic course for cooperation and collaboration with other agencies and surrounding communities to achieve common goals. Implementation will involve consideration of specific projects and activities to then move towards these forest plan objectives and goals. The public is encouraged to participate in the monitoring of implementation of the revised forest plans (Revised LMP, Part 3, Appendix C, pp. 57-62). The Wildland Fire and Community Protection section (FEIS – Vol. 1, pp. 584-588) notes ongoing and anticipated collaboration to develop community fire plans through local community-based Fire Safe Councils that are instrumental in planning for and effecting change in making their communities more defensible (FEIS – Vol. 1, pp. 232, 316 and 588).

The southern California forests discuss WFU as a management tool, and provide subsequent reasoning for not using that tool. “... because of concerns related to air quality and government liabilities related to the proximity of interface/intermix land” (FEIS – Vol. 1, p. 308). Because of the urbanization in and adjacent to the national forests in southern California, most of these NFS lands are considered part of the WUI, and fires will continue to be aggressively suppressed (FEIS – Vol. 1, p. 307). The FEIS has provided compelling reasoning for not considering WFU on the southern California national forests at this time.

“Even fires that start in relatively remote areas can threaten communities within the first 24 hours of ignition. For example, within 24 hours of ignition, the Williams Fire spread from the interior of the Cleveland National Forest to the communities of Azusa, Glendora, San Dimas, LaVerne and Claremont causing structural losses within the national forest by consuming an entire special-use cabin tract. Another type of fire that may start in remote areas but can spread quickly across the national forest to communities is the Santa Ana wind-driven fire. These examples make it clear that in the four southern California national forests, all wildfires may pose threats to communities and public safety, including those that originate in remote areas” (FEIS – Vol. 1, p. 308).

I find the FEIS analysis of effects of fire management is in compliance with NEPA.



Diameter Limits and Effects of Post-fire salvage logging

The appellant contends the Forest Service violates NEPA by failing to provide either a clear diameter limit standard or an environmental effects analysis of post-fire salvage logging (NOA #0012, pp. 213-214). Neither NEPA nor NFMA require establishing diameter limit standards in a land management plan. The agency's response to a public comment (PC 1463) discusses diameter limits as follows: "When forest stands are in need of thinning, the number and size classes of trees to be removed is documented in a prescription by a qualified silviculturalist. Thinning stands of trees in this one size class (6-inch) may not make the highest contribution to stand health, which must be determined on a stand-by-stand basis" (FEIS – Vol. 2, p. 513). The FEIS and Revised LMP use the term "mortality removal" to mean the removal of dead trees and shrubs (both commercial and non-commercial) (FEIS – Vol.2, p. 303). The Revised LMP (Part 3, Table 3.1, pp. 3-4) identifies in which forest types salvage of dead material is acceptable. Post-fire salvage logging may be a component of mortality removal, though mortality removal focuses primarily on trees killed by drought, insects, and disease (FEIS – Vol. 1, p. 86, 87, 88). The environmental effects of mortality removal are disclosed in the FEIS – Vol. 1 (pp. 441, 445, 461, 510, 516, 542, 587). As stated on page 471 of the FEIS, "Salvage cutting does occur but is incidental to forest health issues such as rehabilitation of burned areas or removal of drought and disease mortality. It is not a scheduled output but is rather an exception which cannot be predicted." I find no violation of NEPA, and the FEIS analysis complies with NEPA requirements at 40 CFR 1502.16.

Social and Economic Considerations

Appellant contends the FEIS does not adequately address or analyze the Adventure Pass program in its land management planning (NOA #0012, pp. 226-227). A discussion of "Social and Economic Considerations", including the Adventure Pass is presented in Attachment 2 on pages 3 and 4 of the July, 24, 2007 Cleveland NF Land Management Plan Appeal Decision. This decision is available online at http://www.fs.fed.us/emc/applit/2007wo_decisions.htm

Response to Comment

The appellant makes various contentions that the FEIS fails to provide adequate response to comments from the public and the Science Consistency Review Team, in violation of NEPA. The NEPA regulations state, "An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement" (40 CFR 1502.9 (b)). An agency may respond in several ways, including supplementing, improving, or modifying its analysis (40 CFR 1503.4(a)). The NEPA regulations recognize the need to summarize comments and responses when voluminous, but require that substantive comments be attached to an FEIS whether or not they are thought to merit individual discussion by the agency in the text of the statement (40 CFR 1503.4(b)). The regulations also require that an agency "shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised" (40 CFR 1502.9 (b)).



Public comments on the DEIS and respective Forest Service responses are included in the FEIS, Volume 2, Appendix M—Public Comments and Forest Service Response. Comments are summarized in the form of public concern statements. This appendix includes over 220 pages of summarized public concerns and agency responses. The responses describe how and where (as relevant) each comment is addressed in the planning documents, consistent with 40 CFR 1503.4 (a). Responses to comments raised by the Science Consistency Review Team are found in Appendix Q of the FEIS (Vol. 2, pp. 606-713). The appellant’s specific concerns on this topic are considered below.

The appellant contends the FEIS failed to address comments from the public and the Science Consistency Review Team regarding the need for adequate funding to conduct monitoring, increased law enforcement, and to mitigate effects to species-at-risk in violation of NEPA requirements (NOA #0012, pp. 56-57). In Appendix M of the FEIS – Vol. 2, the agency responds to a number of public comments related to the amount of funding needed to implement alternatives, including p. 401 (PC 193), p. 403 (214 and PC595), p. 404 (PC 191 and PC 195), and p. 405 (PC 222), stating that the alternatives assume current budget levels. Responses to comments raised by the Science Consistency Review Team regarding funding for monitoring of at-risk species are found in Appendix Q (FEIS – Vol. 2, pp. 708-711). In the Species Viability Evaluation, the Forest assumed full funding would be available to implement vegetation treatments and recreation impact monitoring and mitigation over the planning period (FEIS – Vol. 2, p. 54).

The appellant contends the Forest failed to respond to comments raised by a member of the Science Consistency Review Team regarding the adverse effects of increased recreation use in at-risk species aquatic habitat (NOA #0012, p. 57). The agency responds to comments regarding effects of human use to riparian and aquatic habitats/and species-at-risk (FEIS – Vol. 2, Appendix Q, pp. 709-711), by emphasizing the strategic nature of forest plans and need for site-specific analysis as part of forest plan implementation to address specific issues.

The appellant contends the FEIS failed to address comments from the public and from the Science Consistency Review Team in response to the DEIS regarding the use of quantitative data for the population viability analysis, and failed to explain which of the variety of analyses approaches were used or not used in the viability analysis (NOA #0012, pp. 60-61). The agency responds to concerns regarding the species-at-risk viability evaluation, including the use of qualitative data, by more clearly explaining the qualitative nature of the evaluation, both in Appendix Q (FEIS – Vol. 2, pp. 708-710) and in the viability analysis (FEIS – Vol. 2, p. 54). The agency also responds to public comments on the viability evaluation process (AR #4.4.3.8 Errata for Published Documents, p. 5 (PC 1166), p. 10 (PC 1125), p. 18 (PC 1189), and p. 20 (PC 1387)).

The appellant contends the FEIS failed to respond to comments asking the Forest to explain “why it could not adopt the more protective standards and more protective zoning” to conserve the Southern rubber boa (NOA #0012, p. 101). It should be noted that the FEIS does not list the Southern rubber boa as a sensitive species and species of viability concern on the Cleveland National Forest (FEIS – Vol. 1, p. 172; FEIS – Vol. 2, p. 12). The agency responds to general public comments regarding protective standards for the Southern rubber boa (AR #4.4.3.8, Errata



for Published Documents, pp. 15-16 (PC1153)), citing guidance provided in species documents, including the animal species account (AR #4.4.3.1, Species Accounts - Reptile, p. 1407) and the San Bernardino species management guide, which are required for consideration in project planning (Revised LMP - Part 3, p. 6 and Appendix H, p. 71).

The appellant contends the Forest Service failed to adequately respond to comments regarding the need for scientific standards in establishing diameter limits, and failed to respond to comments on the treatment of slash (NOA #0012, pp. 212-216). The response to public concerns related to retention of large-diameter trees (FEIS - Vol. 2, p. 505 (PC 1261), p. 512 (PC 2504), and p. 513 (PC 1463)) and the treatment of slash (FEIS - Vol. 2, p. 511 (PC 1340) are found in Appendix M.

Regarding the issues discussed above, I find the FEIS contains ample evidence that the public comment requirements of the NEPA regulations at 40 CFR 1503.4 are met. Responses to concerns raised by both the public and the Science Consistency Review Team are of adequate substance and detail to meet NEPA requirements at 40 CFR 1502.9(b). I find no violation of law or regulation.

Public Disclosure

Changes Between Draft and Final

Appellant contends the Forest violated NEPA by making significant changes between the DEIS and FEIS to fish and wildlife, and soil, water, riparian, and heritage standards (NOA #0012, pp. 67-84, 113-115, 118).

NEPA regulations authorize an agency to respond to comments on a DEIS by modifying alternatives, developing and evaluating new alternatives, supplementing, improving or modifying the analysis, making factual corrections, or explaining why no response is warranted. These changes should be documented in the FEIS (40 CFR 1503.4(a) and (b)).

Changes made to standards between the draft and final versions of the FEIS are discussed in the agency's response to comments (FEIS – Vol. 2, Appendix M, pp. 439- 442; AR #4.4.3.8, Errata for Published Documents, pp. 14-16, 18). Specifically, the agency's response to public comment #576 (FEIS - Vol. 2 p. 439) explains that Appendix H – Species Guidance Summary in Part 3 of the Revised LMP (as referenced in S11) was revised “to include a list of relevant guidance documents and provides further information on the intent and use of these documents.” The record provides specific rationale for changes made to fish and wildlife, soil, water, riparian, and heritage standards between draft and final versions of the FEIS (AR # 4.3.2.1.2, IDT/VAT Modifications to Standards Modified or Deleted by Policy Team). Many species specific standards that may have originally been suggested as draft standards are now found in the Plant and Animal Species Accounts (AR #4.4.3.1) and are appropriately referenced in the Revised LMP within Standard S11 (Part 3, p. 6).



Appellant specifically contends “the changes are so significant that the final plan now completely fails to ensure viable populations of plants and animals as required by NFMA” (NOA #0012, p. 67). The FEIS analysis displays potential threats to “at-risk” plant and animal species and the standards that address those threats (FEIS - Vol. 1, pp. 366-371, see Tables 376 and 377). The NFMA – “Management Direction” section of this attachment discusses the adequacy of the Revised LMP standards to protect species.

Appellant also contends that the FEIS fails to explain why the selected alternative did not address changes in Critical Biological Zone designation for California gnatcatchers, and that the disparity between the viability outcomes for the Peninsular bighorn sheep between draft and final plan was not explained (NOA #0012, pp. 118-120). Effects to gnatcatchers from changes in Critical Biological Zones are described in the response to comments (FEIS - Vol. 2, pp. 379 (PC 3074), 422- 427 (PC 9785), and 440 (PC 578); See also FEIS -Vol. 2, Appendix B, p. 16; Appendix P, p. 679). The differences in viability outcomes for Peninsular bighorn sheep are discussed in the agency’s response to public comment # 616 (FEIS - Vol. 2, p. 409; AR #4.4.3.8 Errata for Published Documents, p. 21; See also FEIS – Vol. 2, pp. 549 (PC 1807), 577 (PC 2638), and 596 (PC 1168)).

Appellant contends Appendix C (Monitoring Requirements) was “significantly changed between the draft and final versions of the forest plans” (NOA #0012, p. 78). Modifications made to Appendix C are disclosed and explained in Appendix M of the FEIS (Vol. 2, p. 379 (PC 3072); See also FEIS – Vol. 2, pp. 373 (PC 509), 377 (PC 45) and (PC 1013)).

I find the FEIS complies with NEPA requirements at 40 CFR 1503.4(a) and (b). The agency appropriately responded to public comments in the FEIS, and provides adequate information within the FEIS and associated project record that discloses changes made to standards and Appendix C between the draft and final Revised LMP.

Incomplete or Unavailable Information

Acreage of Fuels Management by Vegetation Type

Appellant contends “ . . . the FEIS and final plans do not clearly present the proposed acreage of fuels management by vegetation type (chaparral, coastal sage scrub, mixed conifer, etc.) or by treatment type (fuelbreak, WUI Defense, WUI threat, prescribed burn, etc.”. In addition, information found in the FEIS was often lacking and conflicting (NOA #0012, pp. 131-132).

Forest Plans are programmatic documents, and as such, do not identify specific areas for fuels treatment. Site specific treatments will be identified as projects are proposed and analyzed. All alternatives provide for 75 to 90 percent of the hazardous fuels reduction program to occur near foothill and mountain communities (FEIS – Vol. 1, p. 16). Potential vegetation types occurring within the WUI and which may be treated are identified in Tables 554 and 555 (FEIS – Vol. 1, pp. 314 and 320).



The FEIS discusses the type and intensity of treatments is expected to vary by vegetation type and proximity to human developments. The most intensive treatments would occur within the [WUI] Defense zone, which is described in Chapter 2, and in the Revised Plan (Part 3, Appendix K, pp. 81-85). The WUI Defense zone is the area immediately adjacent to communities. In shrubland types, this zone varies from 100 to 300 feet in width. In forested types, however, it is wider and may extend up to 1,500 feet from developments (Revised LMP, Part 3, standard S-7, p.5). Vegetation in the WUI Defense zone would be heavily modified. Tree thinning and moderate-to-heavy removal of understory shrubs and ground fuels are typical treatments. The analysis assumes the maximum area of the WUI Defense zone will be treated (FEIS – Vol. 1, Table 554, p. 320). I find the disclosure of estimated acreages of fuels management is appropriate to the scale of analysis for land management plans and complies with NEPA regulations.

Control of Invasive Animals

Appellant contends the FEIS contains erroneous assertions about control of invasive animals that are unsupported anywhere in the plans (NOA #0012, p. 193).

To the contrary, the FEIS (Vol. 1, pp. 192-196 and 409-426) accurately describes many established populations of terrestrial and aquatic invasive animals on national forests in southern California, including invasive amphibians, fish, birds, insects, and feral mammals. The FEIS references the survey of non-indigenous species of the South Coast Bioregion (Dudley and Collins, 1995; Stephenson and Calcarone, 1999). A list of thirty-eight principal invasive non-native vertebrates and invertebrates, and their threat levels believed by Forest Service biologists to be the most problematic on the southern California national forests, is listed in the FEIS (Vol. 1, Table 464, pp. 190-191). The Revised Plan includes adequate invasive species program strategies and tactics to prevent and control invasive plants and invasive animals (Revised LMP, Part 2, p. 91). I find the FEIS complies with NEPA with respect to its disclosure of effects from invasive species.

Range of Alternatives

Appellant contends the FEIS violates NEPA by failing to provide a full range of alternatives. Specifically, Wildland Fire Use is not considered as a management tool; alternatives fail to ‘sharply define the issue’ and ‘provide a clear basis for choice’ (40 CFR 1502.14); and no basis is provided to demonstrate higher focus on managing recreation impacts in Alternative 4a versus any other alternative with respect to land-use zoning (NOA #0012, pp. 182, 209, and 228-236).

WFU is discussed as a management tool along with the rationale for not applying this tool in the FEIS (Vol. 1, p. 306). “Resource managers have shown resistance to managing fires for ‘resource benefit’ as ‘WFU’ wildland fires because of concerns related to air quality and government liabilities related to the proximity of interface/intermix land” (FEIS - Vol. 1, p. 308). “The majority of fires on National Forest System land[s] pose an imminent threat to communities within and along the periphery of each [southern California] national forest”... “Even fires that start in relatively remote areas can threaten communities within the first 24 hours of ignition”



(FEIS – Vol. 1, p. 308). Wildland Urban Interface (WUI) protection is clearly identified as a priority. “Current fire suppression practices will be continued, except there would be a much greater emphasis on community protection; also, confine and contain suppression strategies will be used in the more remote portions of the national forests to reduce costs of suppression and to restore forest health, where and when appropriate. All wildfires will be suppressed as either direct or future threats to communities, because the . . . Cleveland . . . [is] considered part of a [WUI] environment. Vegetation treatments would be designed to improve forest health, protect communities, and limit wildfire patch size, with community protection as the primary emphasis of each alternative” (FEIS – Vol. 1, p. 16).

NEPA regulations require an EIS to “objectively evaluate” all reasonable alternatives (40 CFR 1502.14 (a)). Section 1502.14(b) specifically requires “substantial treatment” in the EIS of each alternative, including the proposed action, to enable a reviewer to evaluate alternatives and their comparative merits. “NEPA implementing regulations do not define “reasonable” alternative, but do state that “the alternatives including the proposed action” are proposed to respond to “the underlying purpose and need” for the project (40 CFR 1502.13). The range of alternatives for a project proposal is thus normally limited to alternatives that meet the identified purpose and need. Under NEPA, alternatives are developed to respond to the purpose and need for a proposal, and it is not necessary for the range of alternatives to be so broad as to vary the effects on all resources. The Forest developed seven action alternatives representing a wide range of perspectives on improving conditions for the five issue areas described in the purpose and need (FEIS—Vol. 1, chapter 2). The FEIS (Vol. 1, chapters 2 and 3) clearly demonstrate that the Forest objectively evaluated and compared the seven alternatives. A range of seven alternatives was developed and analyzed to determine the best combination of desired conditions, objectives, strategies, design criteria and zoning to get at the resolution of the issues (ROD, pp. 11-13; FEIS, Vol. 1, pp. 61-68).

Management areas in the 1980 Revised LMP have been translated to the land use zones being used now for comparison with the other alternatives, using the same terms and outputs (Executive Summary of the Final Environmental Impact Statement for Revised Land Management Plans, September 2005, p. 2). The Regional Forester states his “...decision strikes a reasonable balance between the sustainability of the national forest and the complex demands expressed by a wide variety of people, groups, and organizations affected by the management of the Cleveland National Forest” (ROD, p. 1). Alternative 5 “emphasizes land use zones compatible with forest resource development,” while Alternative 6 “focuses on the maintenance of healthy forests, community protection, low impact sustainable recreation uses, and the management of threatened and endangered species” (FEIS—Vol. 1, pp. 52, 56). As explained in the FEIS, Alternative 6 was modified to address comments on the DEIS, including concerns regarding road decommissioning and the retention of administrative access, as well as provisions to zone less area for motorized vehicles (FEIS, Executive Summary, pp. 4-6; FEIS—Vol. 2, p. 410 (PC 911), p. 411 (PC 912)). I find the Forest fully complies with NEPA, specifically 40 CFR 1502.14.



NATIONAL FOREST MANAGEMENT ACT

Management Direction - Goals & Objectives

Appellant contends, "The revised forest plans fail to offer appropriate goals and objectives to manage off-road vehicles" (NOA #0012, pp. 45-50).

Under the NFMA 1982 planning regulations, a forest plan contains six fundamental decisions, including the establishment of forest-wide multiple-use goals and objectives (36 CFR 219.11(b)). As explained in the Revised LMP section, "Purpose of the Forest Plan and Adaptive Management Framework," this "requirement is met through a combination of the desired conditions described in Part 1 and the more traditional objectives described in Part 2" (Part 1, p. 3). Part 2 of the LMP is the strategy specific to each southern California national forest "describes the objectives (36 CFR 219.11 (b)) that the Forest Service intends to implement in order to move the national forests toward the vision described in Part 1" (Revised LMP-Part 1, p. 2).

The appellant further contends "the LMP is not responsive to the National Strategic Plan and the resolution of the threat of unmanaged ORV recreation, a direct violation of 36 C.F.R 219.5(2)" (NOA #0012, p. 51). To the contrary, I find that the Revised LMP is responsive to the National Strategic Plan and the resolution of the threat of unmanaged ORV recreation. Additionally, to clarify, NFMA regulatory requirements for off-road vehicle use are found at 36 CFR 219.21(g), not 219.5 (2) as the appellant alleges.

The National Strategic Plan is part of the Agency's strategic planning that "takes place at the highest level and identifies strategic priorities for the agency that are implemented over a period of time through annual agency budgets" (USDA Forest Service Strategic Plan, FY 2007-2012, p. 7). Objective 4.3, Improve the management of off-highway vehicle use, is where this strategic plan addresses the Agency's commitment to reducing the threat posed by unmanaged recreation, particularly the unmanaged use of off-highway vehicles. The Revised LMP states that Forest Service actions are necessary to achieve the long-term outcomes of clean air, clean water, conserving wildlife, and protecting communities from wildland fire (Part 1, p. 16). One of the actions as identified in the Revised LMP relates to unmanaged recreation: "Work with partners to develop travel management plans that regulate the use of off-highway vehicles (OHVs) on designated roads, trails, and parks in an appropriate manner" (Part 1, p. 17). Table 2.2.2 in Part 2 of the Revised LMP (p. 3) identifies where motorized uses are restricted to designated roads, trails and limited open areas by land use zone. Additionally, motorized uses "may be restricted or expanded further in order to achieve the desired condition for the land use zones. . . ." (Revised LMP – Part 2, p. 5) Part 2 of the Revised LMP contains specific management program strategies and objectives (e.g., AM-2, p. 86, TRANS-1, p. 108, TRANS-4, p. 109) (See also: Revised LMP – Part 3, Appendix D, pp. 63-64) related to managing off-road vehicle use. While the appellant may desire a different format or different set of goals and objectives to manage off-road vehicles, I find that the Revised LMP strategic direction pertaining to unmanaged OHV use is consistent with the Agency's National Strategic Plan and complies with the NFMA (1982) planning regulations requirements at 36 CFR 219.21 (g) for management of off-road vehicle use.



Management Direction

Water Quality and Soils

Appellant contends the Forest Plans violate NFMA because they fail to maintain water quality and protect soils (NOA #0012, pp.166-172).

NFMA regulatory requirements for soil and water resources are found at 36 CFR 219.23 and 219.27. Part 1 of the Revised LMP articulates goals, desired future conditions, and monitoring questions (pp. 2, 6, 16, 40, 42, 43), and Part 3 contains Forest-wide soil, water, and riparian standards (pp. 10-13, 15-16) and monitoring requirements (Appendix C, pp. 57-62) which are designed to protect, maintain, or improve soil and water conditions. Part 2 of the Revised LMP contains Forest-specific strategies including objectives, standards, and monitoring (pp. 17-18, 21, 24, 85 (AM-1), 95 (WAT-1), 96 (WAT-2), 114 (LG-1), 115 (LG-2)) for water and soil resources. Appendix A in Part 3 of the Revised LMP references management direction (e.g., p. 18, Forest Service Manual (FSM) 2550 Soil Management; p. 20, Region 5 Forest Service Handbook (FSH) Supplement 2509.22 Soil and Water Conservation Practices Handbook for the Angeles, Cleveland, Los Padres and San Bernardino National Forests) as well as federal statutes (pp. 22, 28) that are designed to protect soil and water resources.

Appellant also contends the Five-Step Screening Process for Riparian Conservation Areas (RCAs) fails to cite to scientific literature to justify or support the width of the RCA or use the best available science to determine appropriate buffer widths. Further, appellants contend the plan standards fail to prohibit damaging activities within and adjacent to RCAs (NOA #0012, pp. 172-175). The Five-Step Project Screening Process for RCAs will be applied during new project planning and implementation. “The screening process is used in addition to the land allocation restrictions that apply to the project area” (Revised LMP – Part 3, p. 65; FEIS, - Vol. 1, p. 206)

The NFMA 1982 planning regulation for riparian areas (36 CFR 219.27(e)) requires that special attention be given to the land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water. The RCAs on the Forest include this “minimum required 100 foot (~ 30.5 meters) distance from the edge of water bodies and, in addition, also extend to include wider distances based on imperiled species habitat requirements and water quality protection needs . . .” (FEIS - Vol. 1, p. 206). RCAs are clearly defined in Appendix E of the LMP (Part 3, pp. 65-66). “The distances would be prescribed based upon the localized conditions and specific life stage requirements needed by a variety of different riparian-dependent species on the national forests” (FEIS – Vol. 2, Appendix M, pp. 462-463 (PC 1063). The agency provides a detailed response to a public comment that explains the five-step screening process for RCAs and the use of “best available science” to determine buffer widths (FEIS – Vol. 2, pp. 462-463 (PC 1063). Forest-wide design criteria (e.g., Revised LMP - Part 3, p. 6 (S11) and (S15), p.11 (S48 through S50), and p. 12 (S56)) establishes “sideboards for the management activities and help ensure the protection of riparian resources” (FEIS – Vol. 2, pp. 462-463 (PC 1063). Further, the FSH Supplement 2509.22 Soil and Water Conservation Practices Handbook describes low impact techniques to be considered and applied during project level planning to minimize effects to RCA (FEIS – Vol. 2, Appendix M, pp. 462-463 (PC



1063)). The appellant states that no information is available online for this handbook, and claims that the handbook does not exist (NOA #0012, p. 173). The handbook is provided in the record (AR #4.4.2.9, pp. 1-33; Revised LMP – Part 3, Appendix A for relevant management direction by incorporated by reference) and is available through the Forest’s website:

<http://www.fs.fed.us/r5/scfpr/projects/lmp/>

I find the Revised LMP provides broad, strategic management direction adequate to protect and maintain water quality and soil resources and complies with NFMA (1982) regulations at 36 CFR 219.23 and 219.27.

Air

Appellant contends the design criteria in the revised plans "fail to offer a single standard to reduce air pollution and greenhouse gas emissions emitted by the agency . . ." (NOA#0012, p. 202).

The NFMA 1982 regulatory requirements for air resources are found at 36 CFR 219.27 (a)(12) which states management prescriptions shall “Be consistent with maintaining air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.” Air quality is managed through federal, state and local laws and regulations (A.R. #3.7.1.5, Southern California Forests Air Quality Assessment, p. 10; FEIS – Vol. 1, p. 456). Appendix A of Part 3 of the Revised LMP contains a listing of relevant statutes, regulations, Executive Orders and Memorandums, agreements and other management direction that provide overarching management direction for the southern California revised land management plans (p. 17). This appendix incorporates by reference Forest Service Manuals and supplements (e.g., 2500 Watershed and Air Management and 2580 - Air Resource Management (Class I areas are listed in Region 5 Supplement 2500-92-5, pp. 17-18), and numerous federal agency (p. 49) and state and local laws and regulations (pp. 51-52) that contain management direction for air resources.

The Revised LMP—Part 1, under Goal 3.2, contains a desired condition for wilderness that is specifically focused on air resources. The desired condition states: “Remediate and prevent human caused impairments to air quality values (AQRV) including visibility, ozone injury, and acid and nitrogen deposition. Suppression of wildland fires and ignition of prescribed fires in wilderness will consider impacts to human health and air quality (AQRVs).” (p. 37) Part 2 of the Revised LMP describes air management program strategies (p. 94, AIR 1 and AIR 2) and objectives that will be emphasized over the next few years.

I find the Revised LMP contains broad, strategic direction for air resources and appropriately incorporates by reference air management direction contained in Forest Service policies, federal agency, and state and local laws and regulations. The management direction complies with NFMA requirements at 36 CFR 219.27 (a) (12).

Species Viability

Appellant contends “the final plan standards are wholly inadequate to maintain viability of species” (NOA #0012, pp. 84, 86, 100, 104, 107, 110, 115, 117, 122). Further, the appellant contends the “vast majority of the standards (to protect of plant and animals species) do not cite to any research nor are they substantiated by information in the project record” (NOA #0012, pp. 84).



The 1982 NFMA regulatory requirements for managing and providing for species viability and diversity are found at 36 CFR 219.19, 36 CFR 219.26, and 36 CFR 219.27. The species viability evaluation (SVE) and decision process includes specific region-wide and Forest-wide standards (Revised LMP - Part 1, pp. 14-15, 45-46; Revised LMP - Part 2, pp. 68-69, 75-81, 87-90; Revised LMP - Part 3, pp. 6-10, 63-64, 69-70, 71-75). Appendix H of the Revised LMP identifies the main guidance documents and research used to determine the LMP standards (Part 3, pp. 71-75). References and research materials used for the analysis are listed in the FEIS – Vol. 2 (pp. 317-367), and a Science Consistency Board was convened to review the LMP (FEIS Appendix Q, pp. 681-713). In addition, fully referenced species' accounts recommend conservation practices (AR #4.4.3.1, Species Accounts - Animals, pp. 1-1439; AR #4.4.3.1 Species Accounts - Plants, pp. 1-1999; AR #4.4.3.1, Habitat-Reports, pp. 1-114).

One of the “Key Factors of Decision” relative to the selected alternative is the conservation of plant and animal species (ROD, pp. 5, 9-10). Standard S11 was written to “provide a range of possible conservation measures that may be selectively applied during site-specific planning to avoid, minimize or mitigate negative long-term effects on threatened, endangered, proposed, candidate or sensitive species and habitat” (Revised LMP - Part 3, p. 6). This standard clearly shows the intent to maintain viability for species as stated in the ROD, yet it also recognizes the broad, strategic nature of the decision being made, and relies upon information from the individual species guidance documents (AR #4.4.3.1 Animal Species Accounts – Animal and Species Accounts - Plant; FEIS – Vol. 2, Appendix H, pp. 71-75) to be applied to future projects. This approach is consistent with the staged decision-making process used by the Forest Service.

Appellant specifically contends that the Plan fails to adopt specific conservation measures to protect the southern rubber boa, riparian and aquatic species, and meadow, grassland, and coastal scrub species (NOA #0012 pp. 100-119). Potential threats to “at-risk” plant and animal species and the standards that address those threats are displayed in the FEIS (Vol. 1, pp. 366-371, Tables 376 and 377 respectively). The analysis notes that “All aquatic and riparian dependent species would receive protection and management through the land use zoning, standards, and design criteria associated with riparian conservation area management found in the revised forest plans” (FEIS – Vol. 1, p. 327). Revised LMP standards (Part 3, pp. 6-10; Part 2, pp. 68, 69) designed to protect the viability of species are commensurate with the programmatic level of decision, and provide the necessary management direction to achieve conservation of individual species at the project level. I find that the Revised LMP management direction is adequate to maintain the viability of species and is in compliance with the NFMA 1982 planning regulations at 36 CFR 219.19 and 36 CFR 219.27.

Invasive Species and Executive Order 13112

Appellant contends the “The Forest Service’s lack of standards designed to protect vulnerable areas by prohibiting activities known to spread exotic species, and the FEIS' failure to properly disclose the projected spread of noxious weeds and other invasive species, is arbitrary and capricious” (NOA #0012, pp. 191-193, 196-197). Appellant further contends design criteria fail to “mandate action to eliminate invasive species” which is in direct conflict with the Executive Order (E.O.) 13112 on Invasive Species and 40 C.F.R. 1500-1508 Invasive Species (NOA #0012, p. 69, 193).



Although the appellant contends a conflict with NEPA regulations, the design criteria primarily fulfill NFMA requirements and so this contention is reviewed against that standard rather than the requirements of NEPA. I find no evidence to support the appellant's claims under EO 13112 or NFMA on invasive species. Both the Revised LMP Strategy and Design Criteria (Revised LMP - Parts 2 and 3, respectively) provide management direction and identify standards, measures, and activities related to the management of invasive plants and invasive animals. Design Criteria (Revised LMP- Part 3, p. 5 (S6)) contain specific information on preventing and controlling invasive plants (noxious weeds), as does Appendix M (Revised LMP - Part 3, pp. 121-130). The Revised Plan (Part 3, pp. 17, 22, 37, 48, 51, 58, 80, 92, 95, 96, 98, 123, and 128) contains additional management references, strategies, requirements, actions, and measures for invasive plants and invasive animals.

Detailed assessment information, prevention, control measures and methods related to invasive plants and noxious weeds relative to both terrestrial and aquatic areas are found in the FEIS (Vol. 2, Appendix C, pp. 115-147). The Forest acknowledges the importance of inventorying the spatial distribution, magnitude, risks, and composition of invasive species animal and plant infestations across aquatic and terrestrial areas. This is in order to rapidly control and contain invasive species in riparian areas, threatened and endangered, proposed, candidate, and sensitive species habitat, and in areas where there is a high potential for rapid rate of spread (FEIS – Vol. 2, Appendix C, pp. 119-123).

With respect to EO 13112 (See Section 2 - Federal Agency Duties), the Revised LMP and associated FEIS does not impede the ability of the Forest to implement prevention and control activities supporting the implementation of EO 13112 provisions. In fact, the CNF Strategy (Revised LMP, Part 2, p. 91) provides a set of seven broad measures to prevent the introduction of new invaders, conduct early treatment of new infestations, and contain and control established infestations. I find the Forest is in compliance with NFMA requirements and EO 13112.

Livestock Suitability and Capability

Appellant contends the Forest Plan violates NFMA regulations at 36 CFR 219.20 because suitability/capability determination is absent (NOA #0012, pp 148-150).

I disagree. As required by NFMA regulation at 36 CFR 219.20, the FEIS demonstrates the capability and suitability determination process for livestock grazing for the Southern California National Forest revision process (FEIS - Vol. 2, Appendix P, pp. 679-680). The FEIS displays acres of suitable and capable lands for grazing that have been assessed through the two part capability/suitability determination in the Revised Plan (FEIS - Vol. 1, Tables 182 and 108, pp. 64, 361).

Design Criteria found in the Revised LMP directs implementation of livestock grazing activities through standards S51, S52 and S53 (Part 3, p. 11). Allotment specific review of rangeland capability and suitability guidelines shall occur as part of a site-specific allotment or livestock grazing area level NEPA analysis (Revised LMP - Part 3, pp. 79-80). The FEIS identifies condition and trend of vegetation as required by 36 CFR 219.20 (Vol. 1, Table 109, p. 292). Furthermore the Revised Plan includes management direction that will be taken to manage lands not meeting desired conditions as required by 36 CFR 219.20 (Revised LMP- Part 2, Appendix



B, p. 114 (LG 1). I find the Revised LMP is in compliance with NFMA regulations at 36 CFR 219.20.

Recreation Resource

Appellant contends the forest plans fail to adequately examine user conflict levels and impacts to recreation (NOA #0012, p. 41-42). Further, the appellant contends the final plans do not contain adequate strategies to minimize conflicts among hiking, horseback riding and mountain biking (NOA #0012, p. 51).

To the contrary, the record includes more than adequate discussion of the impacts of OHV use relative to the limited nature of the decision being made. ... The FEIS—Volume 1, chapter 3 describes the effects of OHV use on numerous resources, including effects on biodiversity (pp. 350-356), invasive species (pp. 418-420), watershed conditions (pp. 435-436), and infrastructure (pp. 547-552). Desired conditions include OHV use will occur on designated roads and trails only, the system of routes will be managed to minimize conflicts, and conflicts between OHV enthusiasts and other recreationists will be resolved in a timely manner (Revised LMP, Part 1, pp. 33-35).

The Forest addresses conflicts between uses by identifying motor vehicle use as not suitable in four of six land use zones, and restricting it to designated roads, trails, and areas in the remaining two zones (Revised LMP - Part 2, p. 3). The Forest discloses that restricting motor vehicle use to designated routes has multiple benefits including substantial reduction of user conflicts associated with cross-country travel, as well as improving both motorized and non-motorized recreation experiences (FEIS – Vol. 1, pp. 47- 48). The four zones where motor vehicle use is not considered suitable comprise 76 percent of the acreage of the CNF (Revised LMP - Part 2, pp. 6-10). The FEIS explains the strategy of mitigating conflicts through the allocation of suitable uses, and that land zoning decisions in the forest plans revolve around degree of access (FEIS - Vol. 1, p. 238). These include both motorized (automobile, high-clearance vehicle, and trail), and non-motorized (mountain bike, equestrian, and hiking) (FEIS - Vol. 1, p. 474).

Program emphasis and objectives address use conflicts and balanced, environmentally sustainable recreation opportunities (Revised LMP - Part 2, pp. 24-26, 29, 40, 60, 84). Strategies and tactics addressing capacity and use conflicts are specifically addressed under REC 1, 2, and 3 and Trans 1 and 3 (Revised LMP - Part 2, pp. 103, 108-109 respectively). In addition, protocols are identified to manage use conflict situations that arise in the future (Revised LMP - Part 3, Appendix D, pp.63-64).

The Forest discusses conflict between traditional and more recent activities (i.e., OHVs), related to increased demand from the expanding population of southern California, and noise related activities including vehicle oriented activities (FEIS – Vol. 1, p. 238). The FEIS outlines conflict mitigation measures such as zoning, including separating motorized and non-motorized use. Discussion in Vol. 1 of the FEIS analyzes the effects of alternatives on recreation opportunities, activities, and satisfaction (pp. 498-513). This section includes a discussion of impacts to recreation settings (pp. 499-500); impacts to user satisfaction (pp. 500-501); effects of other



resources on recreation (pp. 509-513); cumulative effects involving recreation (pp. 513-517); effects to non-motorized trails (pp. 533-545); and effects on motorized trails (pp. 545-555).

The Revised Plan identifies where mountain bikes can be used based on the specific land use zone (Revised LMP - Part 2, Table 2.2.2, p. 3). The Forest designates 43.1 percent of its land base to a Back Country Non-Motorized Zone and states that this “zone is managed for a range of non-motorized uses that include mechanized, equestrian and public access” (Revised LMP - Part 2, p. 8). The Forest further discusses that “the Roads and Trails Program will emphasize managing the transportation system to address user demand, national forest and community protection needs, and resource considerations (Revised LMP - Part 2, pp. 27-28). I find that the Revised LMP includes strategies to address and mitigate conflicts between recreation uses, including mountain bikes, and is in compliance with NFMA.

Management Direction - Scientific Basis

Rare Communities

The appellant contends that the FEIS fails to use the “best – and widely available – science” regarding categorization of rare communities and the final forest plans “fail to include any enforceable avoidance measures, either for rare plant communities or any other at-risk species” (NOA #0012, pp. 125-126).

Analysis in the FEIS describes the affected environment for 13 vegetation types (Vol. 1, pp. 83-108) and includes over 75 literature citations and numerous references to the Southern California Mountains and Foothills Assessment (SCMFA) (AR #1.1.1.5). The SCFMA, which provides the foundation for the species-at-risk viability evaluation, cites over 550 sources of information (AR #1.1.1.5, pp. 355-380), and was reviewed in whole or part by 24 scientists (FEIS – Vol. 2, Appendix B, pp. 19-40). Scientific input is evident in the development of species and habitat management guidance documents (Revised LMP – Part 3, Appendix H; AR #4.4.3.1, Species Accounts – Plants; See also FEIS -Vol. 2, Appendix Q).

Conservation of plant and animals, including 12 rare communities identified in the SCMFA, is emphasized throughout the Revised LMP (Part 1, Goals 1.2, 2.1, 5.2, 6.1, and 6.2, pp. 21-45). Special land use designations such as established and recommended Research Natural Areas (RNAs) (ROD, p. 9; Revised LMP – Part 2, p. 12; Part 2, pp. 75-82, see discussions related to Englemann oak and Cuyamaca cypress and Tecata cypress), and botanical special interest areas (Revised LMP- Part 2, p. 79, Tecata cypress) protect unique, rare, or sensitive plants or plant communities (ROD, p. 9). The Revised LMP contains ample management direction in the form of Forest-specific management program strategies and tactics (Revised LMP - Part 2, p. 89 (WL1), 95 (WAT 1), 100 (SD4)), Forest-specific design criteria (Revised LMP - Part 2, pp. 68-69 (CNF S9, CNF, S10, CNF S11, CNF S13, and CNF S14)), Forest-wide design criteria (e.g., Revised LMP – Part 3, pp. 6 (S11) and (S12), 8 (S34), and 11 (S51) (S53); Appendix J, p. 80) and species and habitat management guidance (Revised LMP – Part 3, Appendix H) to avoid or mitigate adverse effects of activities on species-at-risk or rare communities. Additionally, several oaks species, including Engelmann oaks, are selected as an MIS (FEIS – Vol. 1, p. 127,



128) and will be monitored during plan implementation (Revised LMP - Part 3, p. 62, Table 3-3, see monitoring question for Goal 6.2 which asks the question, “Are trends in resource conditions indicating that habitat conditions for fish, wildlife, and rare plants are in a stable or upward trend?”).

I find that the Revised LMP management direction is adequate to avoid or mitigate adverse effects of activities on rare communities and species-at-risk. Further, the record demonstrates that the species and habitat management guidance and LMP design criteria are based on a thorough review of literature and a comprehensive review of scientists. The Revised LMP complies with NFMA requirements at 36 CFR 219.19.

Livestock Suitability

Appellant contends the Revised Plans fails to use the “best available science and to conduct a rigorous analyses of the impacts of livestock grazing on biological resources” and the livestock capability and suitability guidelines in Appendix J do not reference any literature (NOA #0012, pp. 148, 170).

I disagree. The Revised Plan discusses livestock grazing as a suitable use in designated areas of all land use zones, with the exception of “Critical Biological” (Revised LMP – Part 2, p 4). Livestock grazing is identified as a commodity on the Forest (Revised LMP – Part 2, pp. 30-31). Livestock grazing is acknowledged through program emphasis in specific “Places” (Revised LMP – Part 2, pp. 33-66). Detailed program strategies to make progress toward achieving the desired conditions and goals are identified in Appendix B – Program Strategies and Tactics (Revised LMP– Part 1, Goal 6.1, pp. 42-43); Revised LMP – Part 2, pp. 114 – 115).

The FEIS contains analysis as well as numerous references to current available science regarding impacts of livestock grazing on biological resources including various utilization levels (FEIS – Vol. 1, pp. 289-290, 321-323, 360-373, 420-421, 439-440, 448-449, 461 and 565-572; FEIS - Vol. 2, Appendix K). The FEIS displays the rangeland suitability process and discusses information based on current available science (FEIS – Vol. 2, Appendix P, pp. 679-680). Information gathered from monitoring completed on the Forest is discussed (FEIS - Vol. 1, pp. 289-292). The effects analysis related to impacts of livestock grazing on biological resources is adequately supported. I find the Revised LMP complies fully with NFMA.

Fish and Wildlife Resources

Species Viability

Appellant contends the Forest Plans violate NFMA because they do not ensure the viability and diversity of wildlife and plans in the plan area (NOA #0012, p. 53-122). Appellant specifically contends “. . . the plans fail to use rigorous science to conduct viability analyses and conclusions are arbitrary and capricious” (#0012, pp. 57). The appellant also contends, the FEIS, final plan, and species accounts “fail to meet NEPA’s requirement to ensure scientific accuracy and integrity, and provide hard scientific data to support key conclusions” (NOA #0012, p. 84).



The ROD indicates (p. 18) the Revised LMP management direction in Part 2 and in Part 3 addresses “the risk factors to provide biological conditions for species viability and persistence in southern California.”

Viability analyses conducted for land management plan revisions must comply with NFMA 1982 planning regulations at 36 CFR 219.19, and use the best available, scientifically sound information. There is no specific procedure required by law, regulation, or policy for conducting a species viability evaluation. The SVE and decision process are deliberate and incorporate current scientific information on species and habitat and the review of external and internal experts (ROD, p. 18; Revised LMP - Part 1, pp. 14-15, 45-46; Revised LMP - Part 2, pp. 68-9, 75-81, 87-90; Revised LMP - Part 3, pp. 6-10, 63-64, 69-70, 71-75; FEIS – Vol. 1, pp. 109-178, 591-602; FEIS – Vol. 2, pp. 5-114, 317-367, and 681-713; AR #4.4.3.1 Species Accounts - Animals, pp. 1-1439; AR #4.4.3.1 Species Accounts - Plants, pp. 1-1999; AR #4.4.3.1, Habitat-Reports, pp. 1-114).

Appellant specifically contends the Revised LMP “fail to maintain viable populations of the California spotted owl” (NOA #0012, p. 9, 86-98). California Spotted Owl habitat requirements, species information and national forest population data are displayed in the FEIS – Vol. 1 (pp. 128-130, 152, 167, 173, 319, 332-336, 341-343, 350, 354, 391, 397, 408; FEIS - Vol. 2, pp. 12, 33, 50, 62, 74, 78, 80, 196, 205-206, 222-223, 234, 244) and in the administrative record (AR #4.4.3.1 Species Accounts – Bird, pp. 227-259). Historical range and population information is referenced and provided by expert sources including the United States Fish and Wildlife Service (USFWS), California Natural Heritage Program, and NatureServe (Revised LMP - Part 3, pp. 71-75; FEIS- Vol. 1, pp. 128-129; FEIS – Vol. 2, pp. 317-367, 681-713; AR #4.4.3.1, Species Accounts – Bird, pp. 227-259). The California Spotted Owl is selected as a MIS and will be monitored annually (Revised LMP - Part 1, p. 45; Part 3, pp. 16, 57-62). The effects analysis indicates all alternatives are likely to maintain viability of the California Spotted Owl (FEIS – Vol. 1, pp. 128-130, 175, 178, 319, 332-336, 405-406, 408; Vol. 2, pp. 12, 78, 80; (AR #4.4.3.1 Species Accounts – Bird, pp. 227-259). The viability analyses for the southern California NFs Revised LMP are in compliance with NFMA.

Appellant contends implementation of the plan will likely result in declines for the Mt Gleason paintbrush species “because of potential reduction in monitoring activities, continuing on-going, unaddressed threats and increasing impacts from proposed ‘fuels’ management” (NOA #0012, p. 102). The Mt Gleason paintbrush does not occur on the Cleveland National Forest. Appellant also contends the FEIS and Revised LMP fail to disclose any population data for the Large-blotched *Ensatina* salamander, San Gabriel Mountain slender salamander, or southern rubber boa (NOA #0012, pp. 57, 61, 100, 101). NFMA 1982 planning regulations require that the Forest Supervisor “shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction” (36 CFR 219.12 (d)) and forest planning “shall provide for diversity of plant and animal communities and tree species consistent with the overall multiple-use objectives of the planning area” (36 CFR 219.26). The San Gabriel Mountain slender salamander and southern rubber boa are not known to occur on the Cleveland National Forest, nor does the Forest contain any potential habitat (AR #4.4.3.1, Species Accounts – Amphibian, pp. 92-97 and Species Accounts – Reptile, p. 1402). The Large-blotched *Ensatina* salamander population locations are discussed in the Species Accounts (AR #4.4.3.1, Species



Accounts - Amphibian, pp. 67-72). The information displayed in the FEIS is adequate to comply with NFMA 1982 planning regulations at 36 CFR 219.12(d), and 36 CFR 219.26.

I find that the Revised LMP adequately provides for wildlife viability and diversity as required by the NFMA 1982 planning regulations at 36 CFR 219.19. Further, the analyses and discussions contained in the FEIS and record demonstrate the professional and scientific integrity requirements of NEPA regulations at 40 CFR 1502.24 are met.

Management Indicator Species

Appellant contends, “. . . the chosen MIS do not represent the suite of species that depend upon similar habitats; the accounts fail to disclose or even attempt to estimate the number of reproductive individuals of many MIS and other at-risk species based on any available scientific data in order to reasonably ensure viable populations; and viability was evaluated only with respect to entirely qualitative speculation about how suitable habitat is distributed across the plan area” (NOA #0012, p. 54).

The NFMA 1982 Planning Regulations require that the reasons for selection of a species as a MIS be stated (36 CFR 219.19(a) (1)), and that population trends of MIS be monitored and relationships to habitat changes determined (36 CFR 219.19(a) (6)). There is no requirement to select any particular species or guild of species as management indicators. The selection of, and analysis of effects on, MIS are discussed in the Revised LMP (Part 1, pp. 35, 45-46; Part 2, pp. 85-90; Part 3, pp. 71-75), FEIS Vol. 1(pp. 123-130, 177-179, 337-343, 347-349, 357-358, 360, 372, 375-377, 380, 393-395, 406-409; Vol. 2, pp. 72-86) and in the individual species accounts (AR #4.4.3.1 Species Accounts - Animals, pp. 1-1439; AR #4.4.3.1, Species Accounts - Plants, pp. 1-1999; AR #4.4.3.1, Habitat Reports, pp. 1-114). The Forest followed a well-documented process for selection of MIS and stated the reasons for selection of each (Revised LMP - Part 1, pp. 45-46; FEIS - Vol. 1, pp. 123-130, 406-409; FEIS - Vol. 2, pp. 72-81).

Appellant also contends, “Key vegetative communities lack adequate MIS representation, resulting in the inability of the monitoring program to measure the effects of national forest management activities on those communities” (NOA #0012, pp. 61-67, 137). The Forest selected twelve MIS that represent different landscape-scale habitat types (Revised LMP - Part 1, pp. 45-46; FEIS - Vol. 1, pp. 123-130, 177-178, 393-395, 406-409; FEIS - Vol. 2, Appendix B, pp. 72-81). The final selection of MIS “...were chosen that represent important management concerns where plan and project design and implementation could be evaluated and compared” (FEIS - Vol. 1, p. 123), and “...because they describe patterns and considerations that are similar for other terrestrial and aquatic species” (FEIS - Vol. 1, p. 327). The monitoring requirements for MIS (Revised LMP - Part 1, p. 35; Revised LMP - Part 2, pp. 88-90; Revised LMP - Part 3, pp. 57-62, 71-75) are adequate and comply with NFMA requirements at 36 CFR 219.19 (a)(6). I find the MIS selection process for the southern California NFs revision, and MIS monitoring requirements are adequate and in compliance with NFMA (36 CFR 219.19(a) (1)). A discussion on species viability and population data is presented in the “Fish and Wildlife Resources” section of this attachment.



Monitoring and Evaluation

Appellant contends the Revised Plan fails to provide for adequate and continuous monitoring; specifically, fire management, OHV and grazing (NOA #0012, pp. 50, 58-59, 156, 219, 238-239).

The Regional Forester discusses adaptive management and monitoring at the landscape scale, including monitoring requirements (ROD, p. 1). By adopting a landscape-scale adaptive approach to management, the CNF will engage in a continuing cycle of on the ground management, monitoring and evaluating results, and adjusting management accordingly. Identifying and describing the methodology for on-the-ground individual project monitoring measures must be project and site specific. It is not appropriate for the Revised Plan to identify individual project specific monitoring activities. Implementation and effectiveness monitoring for are conducted at the project level (Revised LMP – Part 3, Appendix C, pp. 57-62).

NFMA requires the Revised Plan to include monitoring and evaluation requirements to evaluate the effects of management activities during implementation (36 CFR 219.11(d) (1982)). Further, CFR 219.12 (k) (1982) states “[a]t intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied.” Annually, a randomly selected ample of projects and on-going activities (at least 10 percent) will be reviewed (FEIS – Vol. 2, Appendix C, p. 61). I find the Cleveland National Forest’s monitoring summary and FEIS fully meets the intent of NFMA.

Appellant specifically contends the monitoring plan for fire management does not meet NFMA requirements at 36 CFR 219.12 (k) (4) (NOA #0012, p. 219). The monitoring plan developed for the Revised Plan is at the same strategic level as the plan itself. The monitoring indicators located in Table 3-3 (Revised LMP - Part 3, p. 58) includes trends in condition class and fire risk. The monitoring plan states that these trends are evaluated periodically to determine if the national forests need to shift program strategies. These data are reported in the annual monitoring and evaluation report as part of the national forests' implementation monitoring efforts (Revised LMP - Part 3, Appendix C, pp. 61-62). I find the monitoring plan for fire management fully meets NFMA requirements at 36 CFR 219.12 (k) (4).

Appellant also contends the Revised Plan fails to provide for adequate monitoring of OHV impacts (NOA #0012, p. 50). The broad direction in Section 8 of EO 11644 is not tied specifically to land management plans and the appellants have not demonstrated how the Forest Revised Plan violates this direction. The appellants refer to direction at 36 CFR 295.5 regarding monitoring. This regulation was not in effect at the time the CNF ROD was signed. Even if it was applicable, similarly to the EO, it is not tied specifically to land management planning. The Revised Plan provides for adequate monitoring of OHV impacts. Specifically, (Revised LMP – Part 3, Table 3-3, pp. 58-59) identifies monitoring requirements which would detect impacts from OHV use. At least 10 percent of projects and ongoing activities will be monitored annually for consistency with forest plan direction (Revised LMP - Part 3, pp. 58-59). I find the monitoring plan for OHV fully meets NFMA.

The appellant further contends that the revised forest plans “failed to specify standards and methodology for livestock monitoring” (NOA #0012, p. 156). The Revised Plan includes Design



Criteria which defines standards for livestock grazing (S51 and S56) (Revised LMP - Part 3, pp. 11-12). The Revised Plan incorporates by reference FSM and FSH direction (Revised LMP- Part 3, Appendix A, pp. 17-20). The Interagency Monitoring Technical References contain Forest Service approved monitoring methods and standards for monitoring (FSM 2206, FSH 2209.13). I find the Revised LMP specifies standards and methodology for livestock monitoring and is in compliance with NFMA.

Wilderness Designation

Evaluation of Roadless Areas

Appellant contends the FEIS and ROD fail to properly evaluate roadless areas for wilderness recommendation as required by 36 CFR 219.17(a) and FSH 1909.12, Chapter 7 ¹(NOA #0012, pp. 17-18, 20–38).

Roadless, undeveloped areas must go through a two-step evaluation process to be recommended as suitable for wilderness. A review of the record clearly demonstrates that the regional forester documented his rationale for wilderness recommendations, properly following the requirements of this Code of Federal Regulations (CFR) and Handbook direction. The CNF conducted a thorough evaluation of all roadless areas on the inventory of potential wilderness against the criteria of capability, availability, or need for recommendation as wilderness, consistent with FS policy (FEIS – Vol. 2, Appendix D, pp. 149-174). The Forest clearly displayed the disposition of each of the inventoried roadless areas, indicating areas recommended for wilderness in each alternative, as well as the land use zone allocation for those not recommended for wilderness (FEIS - Vol. 1, pp. 24-56; FEIS – Vol. 2, Appendix D, pp. 155-173).

The Regional Forester explains that he chose roadless areas for recommended wilderness that make sense managerially and add quality to the National Wilderness System. Public concerns for the protection of undeveloped areas not recommended for wilderness are addressed by allocating those areas to Back Country zones (ROD, pp 6-8).

Each area's specific attributes are described, including special features, features not available whether it is for wilderness or non-wilderness. The Forest clearly displayed the disposition of each of the inventoried roadless areas, indicating areas recommended for wilderness in each alternative, as well as the land use zone allocation for those not recommended for wilderness (FEIS – Vol. 2, Appendix D, Table 352, p. 156). The agency's response to comments explains the reasons for wilderness recommendations (FEIS - Vol. 2, pp. 403 (PC 3522), pp. 473-475 (PC 2179) and p. 481 (PC 2298, 2253, 2260, 2268 and 2269). The Regional Forester states that project proposals that affect the undeveloped areas with wilderness character will be analyzed and disclosed during site specific project analysis required by NEPA (ROD, p. 8).

¹ (The citation of the directive in effect during this process is 1909.12-92-1, chapter 7, (Effective 8/3/92) (This directive was revised in 2005 and in 2007).



FSH 1909.12-92-1 (Chapter 7) 7.25 states: “Include site specific statements of the environmental consequences that a non-wilderness designation would have on the roadless area.” The Forest conducted an appropriate and adequate level of analysis, commensurate with the decision being made. Although there is no section specifically titled “Roadless Areas,” the effects of non-wilderness land use designation on the inventoried roadless areas are disclosed. The Forest states explicitly that development in roadless areas assigned to management zones other than Recommended Wilderness would potentially shift the setting of those individual areas toward a semi-primitive motorized experience, altering the range and distribution of recreation opportunities across the national forest (FEIS—Vol. 1, pp. 510, 516; FEIS – Vol. 2, Appendix D, p. 154).

I find that the FEIS properly evaluated Forest wilderness recommendations and that analysis of roadless areas and subsequent recommendations for wilderness are consistent with NFMA planning regulations and FS policy found in FSH 1909.12, Chapter 7 – Wilderness Evaluation.

Research Natural Areas (RNA)

The appellant contends the FEIS “fails to explain why several proposed [RNAs] were not adopted in the final plans. Neither the FEIS (Vol. 1 at pp. 323-324) nor Appendix J [F] justifies the exclusion of the San Diego River, the Viejas Mountain, the Guatay Mountain, or Pleasant’s Peak [RNAs]” (NOA #0012, p. 160). The appellant erroneously refers to Appendix J; the correct appendix reference is Appendix F: Research Natural Areas. Appendix J contains the Glossary. Also, the aforementioned RNAs are located within the boundary of the Cleveland National Forest (FEIS – Vol. 2, Appendix F, p. 263). “Direction for establishing a national system of RNAs is contained in 36 CFR 219.25, 36 CFR 251.23, and FSM 4063. The Regional Forester has the discretion to evaluate and select, or not, proposed areas for designation as RNAs. Furthermore, the FSM does not require a stated rationale for non-selection. The FEIS describes the RNA process and the candidate areas (FEIS—Vol. 2, pp. 262-263). The Regional Forester has discretion in evaluating and designating Special Interest Areas (SIA). I find the Forest is in compliance with NFMA regulations and policy.

ENDANGERED SPECIES ACT

The appellant contends that the final forest plans fail to adequately address the impacts of livestock grazing on the federally endangered least Bell’s vireo and federally threatened Southwestern willow flycatcher. Specifically, appellants claim “. . .no studies were cited of data provided to indicate that the Design Criteria’s utilization standards which differ from Recovery Plan recommendations would adequately protect these species. The final forest plans fail to adequately conserve and contribute to the recovery of these two listed riparian bird species, in violation of ESA” (NOA #0012, pp. 110-112).

The conservation and recovery of threatened and endangered species is emphasized in all activities and land use zones (FEIS—Vol. 1, pp. 6, 30, 49; Revised LMP— Part 2, pp. 2-10; Revised LMP – Part 3, pp.6 (S11 and S12), 8 (S24), 11 (S55), and Appendix H). For example, the Critical Biological land use zone designated in the Revised LMP “. . . includes the most



important areas on the national forest to manage for the protection of species-at-risk. . . . The management intent is to retain the natural character and habitat characteristics in this zone and limit the level of human development to manage for protection of species-at-risk” (FEIS—Vol. 1, p. 22; FEIS—Vol. 2, pp. 72-81, 434 (PC 570); ROD, p. 9). Occupied habitat for the southwestern flycatcher is included as a critical biological land use zone on the Forest (Revised LMP - Part 2, p. 9) and habitat restoration and improvement is included as a priority conservation strategy (Revised LMP – Part 2, p. 9, 88). The species guidance documents recommend numerous conservation practices, including several measures from the southwestern willow flycatcher recovery plan (AR# 4.4.3.1, Species Accounts - Bird, p. 370, 538 – 542; AR #4.4.3.8, Errata for Published Documents, p. 14 (PC 1150); Revised LMP – Part 3, p.6 and Appendix H). Effects of the final Forest Plans, including effects from livestock grazing, on occupied and suitable habitat for least Bell’s vireo and southwestern willow flycatcher are analyzed in detail within the BA (AR, # 4.4.2.3, p.23, 156, 166; See also FEIS – Vol. 2, p.62; AR #4.4.3.1, Species Accounts – Birds, pp. 526–552, 360-377; AR, # 4.4.4.12, Biological Opinion, pp. 87, 96, 298-325).

Forest Service Manual (FSM) 2672.23 states that recovery plans serve as guidance for land management plans. Livestock grazing utilization standard S56, allows for no grazing in occupied habitat for these species during the nesting season (Revised LMP- Part 3, p.12). The agency responds to public comment regarding microhabitat requirements for southwestern willow flycatcher and the least Bell’s vireo states “[t]he proposed utilization standards (S56) are consistent with those recommended in the southwestern flycatcher recovery plan (AR #4.4.3.8, Errata for Published Documents, p. 15 (PC 115)).

The USFWS issued a non-jeopardy biological opinion (BO) for both southwestern flycatcher and least Bell’s vireo. Discussion in the BO concludes that implementation of Plans are not likely to jeopardize the continued existence of the southwestern willow flycatcher or least Bell’s vireo, and that the proposed action is not likely to adversely modify proposed critical habitat of the southwestern willow flycatcher or adversely modify least Bell’s vireo critical habitat (AR, # 4.4.4.12, Biological Opinion, pp. 88-89, 97). I find that the analysis of the effects of proposed Revised LMP management activities on the least Bell’s vireo and the Southwestern willow flycatcher are adequately disclosed. Further, the management direction contained in the Revised LMP adequately conserves and contributes to the recovery of these two listed species and is in compliance with ESA.

The appellant contends that the Forest Service fails to “adopt pro-active measures to protect occupied and unoccupied habitat” for the federally endangered Quino checkerspot butterfly. Therefore, appellant contends, “the Forest Service is not complying with its legal duty to protect and recover this highly imperiled species, in violation of NFMA and the ESA” (NOA #0012, pp.115-117). I disagree. Revised LMP – Part 1 contains three goals focused specifically on protection, preservation, and restoration of management indicator and threatened and endangered species and their habitat (Goal 3.1, p. 33; Goal 6.2, pp. 45-46; and Goal 7.1, pp. 46-47; See also FEIS – Vol. 1, pp.6, 30, 49). Part 3 of the Revised LMP includes as design criteria, consideration of species management guides which contain recommended conservation practices (p. 6 (S11 and S12) and Appendix H; AR # 4.4.3.1, Species Account - Invertebrates, p. 916) and standard S30 restricts activities which could result in the removal, crushing, etc. of butterfly host



plants (Revised LMP – Part 3, p.8). Forest Plan monitoring requirements assure that design criteria are being met and achieve the desired condition (AR # 4.4.2.3, 3, Biological Assessment, pp. 31-35; Revised LMP – Part 3, p.16, 57-62). Implementation of Forest Plan standards will result in the avoidance or mitigation of Quino checkerspot butterflies and their habitat if discovered (AR, # 4.4.2.3, Biological Assessment, pp.62-66, i.e., S6, S11, S12, S30, and S37; included in their entirety on pp.24-30; Revised LMP – Part 3, pp.3-15; AR # 4.4.4.12, Biological Opinion, pp.138-143). The USFWS concluded that implementation of the Plans are not likely to jeopardize the continued existence of the Quino checkerspot butterfly, and the proposed action is not likely to adversely modify designated critical habitat (AR, # 4.4.4.12, Biological Opinion, p.143). Included with the BO were an incidental take statement pursuant to section 7(b)(4) of the ESA (AR, # 4.4.4.12, Biological Opinion, pp. 295-297), and conservation measures intended to further the recovery of federally endangered and threatened species (AR, # 4.4.4.12, Biological Opinion, p.296). I find that the Revised LMP management direction is adequate to protect and promote recovery of the Quino checkerspot butterfly and is in compliance with the ESA.

The appellant contends that the Forest Service fails “to adopt feasible measures to adequately conserve” the Peninsular bighorn sheep in violation of the ESA and NFMA (NOA #0012, pp.120-122). The Peninsular bighorn sheep occurs only on the San Bernardino National Forest (FEIS - Vol. 2, p.11; AR # 4.4.2.3, Biological Assessment, p.7, AR #4.4.3.1, Species Accounts – Mammals, p. 1102) where there is 17,016 acres or 2% of designated critical habitat (AR, # 4.4.2.3, Biological Assessment, p.169-170; # 4.4.4.12, Biological Opinion, p.288). No potential, existing, nor historic habitat for Peninsular bighorn sheep occurs on the Cleveland National Forest (FEIS – Vol. 1, pp.150-151; AR # 4.4.2.3, Biological Assessment, p.7). I find no violation of law, regulation, or policy.

The appellant contends the final forest plans do not address sources of mortality to the California condor, and “fail to provide the enforceable standards needed to protect the species from oil pollution, trash ingestion, and lead poisoning. The agency is required to ensure the survival and recovery of the species in the forest plan; ignoring these sources of mortality is a violation of the ESA and will likely result in jeopardy” (NOA #0012, pp.119-120). I disagree. The agency responds to a public comment related to analyzing of potential impacts of development to the California condor (AR #4.4.3.8, Errata to Public Documents, p. 8 (PC 1109)). Primary threats to the California condor are thoroughly discussed in the record (AR #4.4.3.1, Species Accounts - Birds, pp. 198-204; AR, #4.4.2.3, Biological Assessment, pp. 133-141; AR #4.4.2.12, Biological Opinion, pp. 100-103). Additional mitigation for potential impacts from activities, including oil and gas drilling operations, are presented in the administrative record (Revised LMP – Part 3, pp., 6-9; Standards S11, S12, S13, S18, S22, S24, S28, S31, S32, S34, and S42; AR #4.4.2.12, Biological Opinion, p. 108; AR, # 4.4.2.3, Biological Assessment, pp.134-140). The USFWS reviewed the Forest Service’s documentation and mitigation measures included in the Revised LMP and concluded that implementation of the Revised LMP is “not likely to jeopardize the continued existence of the California condor or adversely modify its critical habitat” (AR #4.4.2.12, Biological Opinion, p. 108). In addition, because the California condor is federally listed as endangered, “. . . any new project proposed in or near its habitat will undergo considerable analysis and be subject to consultation with the U. S. Fish and Wildlife Service at the site-specific level” (AR #4.4.3.1, Species Accounts – Bird – California condor).



Additionally, conservation measures intended to further recovery of federally endangered and threatened species are included in the BO (AR, # 4.4.4.12, Biological Opinion, p. 296).

I find that the Revised LMP management direction is adequate to protect the California condor and is in compliance with the ESA.

WILD & SCENIC RIVERS ACT

Forest Plan Protection of Eligible Rivers

Appellant contends that the FEIS fails to provide adequate protection for eligible wild and scenic rivers on the Cleveland National Forest (NOA #0012, p. 40). I disagree. The Revised LMP includes a special designation overlay for eligible wild and scenic rivers (Part 2, p. 11). Specifically, new facilities, management actions or uses on National Forest System lands are disallowed if they do not provide protection for the river's free-flowing condition, outstandingly remarkable values and inventoried classification. This chapter further directs that uses must comply with guidance in FSH 1909.12, Chapter 8.2 (now Chapter 82.5).

Wild and Scenic River Suitability

Appellant contends that wild and scenic river suitability should have been completed on the Cleveland National Forest. The appellant also contends that deferring suitability will increase subsequent costs when such study is completed separate in time from plan revision, and may leave eligible rivers "open to changes in planning and management direction" (NOA #0012, pp. 40-41).

Forest Service policy allows the Regional Forester to defer the suitability of agency-identified study rivers:

"The timing of conducting the suitability process may vary. The preferred process is to proceed with determining suitability in the land management planning process. An alternative is to delay the suitability determination of eligible rivers until a subsequent separate study is completed. If such delay is warranted, the land management plan shall provide for protection of the eligible river corridor until a decision is made on the future use of the river and adjacent lands" (FSH 1909.12, 83.1).

Importantly, deferring the study of an eligible river does not obviate following the management guidelines specified in Section 82.5 (FSH 1909.12) to protect the river's free-flowing character, outstandingly remarkable value and inventoried classification. Any previous commitment to conduct suitability was with the proviso of having sufficient resources to complete the wild and scenic river study process. I find the Revised LMP is consistent with agency policy found at FSH 1909.12.



Record Does Not Support Eligibility Findings of Certain Rivers

Appellants contend the administrative record does not support the eligibility findings for Pine Valley Creek, San Diego River and Cedar Creek on the Cleveland National Forest (NOA #0012, pp. 40-41). They provide a rationale for reconsideration for only one of these rivers, which I discuss below. The appellant does not provide me any basis for reconsidering the forest's application of its eligibility criteria to either the San Diego River or Cedar Creek.

Pine Valley Creek

Appellants contend Pine Valley Creek should have been determined eligible as one of the longest free-flowing, low-elevation streams on the forest, with critical habitat supporting highly significant populations of endangered arroyo toad and sensitive southwestern pond turtle (NOA #0012, pp. 40-41). I disagree. The record identifies Pine Valley Creek as “one of the longest free-flowing, low elevation streams in the California Mountains and Foothills assessment area” (AR #4.4.3.1, Wild and Scenic Rivers, p. 115). The likely largest aggregation of arroyo toad on this forest was judged not to be regionally significant due to the presence of larger populations elsewhere in the region of comparison. The record also identifies the presence of “one of the largest” southwestern pond turtle populations remaining in southern California as not regionally significant due to larger populations elsewhere in the region of comparison (AR #4.4.3.1, Wild and Scenic Rivers, p. 117). These findings are consistent with the evaluation criterion.

EXECUTIVE ORDER 12898—ENVIRONMENTAL JUSTICE

Appellant variously contends the Forest Service has not made Environmental Justice an integral part of the FEIS analysis and cannot ensure that adverse and disproportionate impacts to minority and low-income communities will not occur (NOA #0012, pp.219-227). The appellant further contends the FEIS fails to adequately analyze the environmental justice impacts of each alternative (NOA #0012, pp. 223-255). A detailed discussion of “Executive Order 12898 – Environmental Justice” is presented in Attachment 2 on pages 16 through 18 of the July, 24, 2007 Cleveland NF Land Management Plan Appeal Decision. This decision is available online at http://www.fs.fed.us/emc/applit/2007wo_decisions.htm

