



November 17, 2015

Public Comments Processing
Attn: FWS-R8-ES-2015-0139
U.S. Fish and Wildlife Service, MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

RE: Comments on Proposed Listing for the California spotted owl (*Strix occidentalis occidentalis*)

To whom it concerns:

These comments are submitted in response to the U.S. Fish and Wildlife Service's proposed rule to list the California spotted owl as endangered under the Endangered Species Act. Los Padres ForestWatch is a local, community-based nonprofit organization working to protect wildlife habitat and wilderness landscapes in the Los Padres National Forest and other public lands along California's Central Coast. There are currently 65 owl sites within the Los Padres mountain ranges, and the Los Padres National Forest provides important habitat for the species.

Los Padres ForestWatch strongly supports the listing of the California spotted owl as threatened or endangered. The listing will give the California spotted owl adequate protection and help the species recover from current and ongoing population decline. The listing is warranted because the current Land Management Plan for the Southern California National Forests lacks adequate protections for the California spotted owl.

The California spotted owl meets the factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act including: the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; the inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting its continued existence.

1. The Forest Service is Not Monitoring the Trend of California Spotted Owls in Accordance with Its Own Land Management Plan

The U.S. Forest Service has selected the California spotted owl as a "management indicator species" (MIS) for the four southern California national forests, including the Los Padres National Forest. *See* USDA. 2005c Land Management Plan (LMP) Part 1 Southern California National Forests Vision Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-075. MIS are selected because their population or habitat trends are believed to indicate the effect of management activities. A management indicator species is used to indicate whether habitat conditions are stable or improving overtime.

The LMP requires the Forest Service to monitor MIS at regular intervals to detect changes in population trends. Specifically, the land management plan states:

The California spotted owl and its habitat will be monitored to answer the question, “Are mature, large diameter, high canopy cover stands with densely-shaded understories being maintained in sufficient distribution, quantity and quality to provide habitat for California spotted owl and other interior forest species?” Many wildlife species, including the California spotted owl, specifically require these ecological conditions. A territorial species with large acreage requirements (at least 300 acres of mature forest per pair), the California spotted owl is an indicator of mature conifer forest with a dense, multilayered canopy (Stephenson and Calcarone 1999). Monitoring the California spotted owl and its habitat will indicate the effectiveness of management activities in achieving maintenance and restoration of this type of montane conifer habitat.

USDA. 2005b Final environmental impact statement for land management plans Volume II: Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-074-B, p. 80; *See also* USDA. 2005 Final environmental impact statement for land management plans Volume I: Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-074-A, p. 129.

The Forest Service is not conducting this requisite monitoring of California spotted owl habitat in the Los Padres National Forest, even though the agency recognizes that “Experts have been concerned about the viability of the southern California spotted owl population for many years (La Haye and others 1994, Verner and others 1992), and this concern has only increased with the damaging drought, recent wildfires, and rapid development in the mountains.” FEIS Vol. 1 at p. 129. Without conducting the periodic MIS monitoring of spotted owls that is required by the LMP, the Forest Service cannot adequately evaluate the effectiveness of management and land use activities on California spotted owl population trends, leaving the California spotted owl at risk of extinction and justifying a listing as endangered under the ESA.

2. Land Management Plan Standards are Inadequate to Protect Spotted Owls, and Can Be Waived

The standards listed in the LMP that address threats to the California spotted owl are standards 11, 14, 15, 17, 18, 19, 20, 21, 34, 37 (Table 377, FEIS Vol.1, page 367). Although these standards are in place to protect the spotted owl, they are not adequate and can be waived entirely by the U.S. Forest Service.

Standard 8 of the Land Management Plan states that “community protection needs within the WUI Defense Zone *take precedence over* the requirements of other forest plan direction, including other standards identified in Part 3 of the forest plan. If expansion beyond the 300-foot

minimum width of the defense zone is needed due to site-specific conditions, projects will be designed to mitigate effects to other resources *to the extent possible.*” (USDA, 2005d) This standard gives the forest service unilateral authority to waive its all of the forest plan standards that protect the spotted owl and its habitat. The important standards that could be waived include:

- S11 which states that “When occupied or suitable habitat for a threatened, endangered, proposed, candidate or sensitive (TEPCS) species is present on an ongoing or proposed project site, consider species guidance documents (see Appendix H) to develop project-specific or activity-specific design criteria. This guidance is intended 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. Involve appropriate resource specialists in the identification of relevant design criteria. Include review of species guidance documents in fire suppression or other emergency actions when and to the extent practicable.”
- S19 which states that the forest service must “Protect all spotted owl territories identified in the Statewide California Department of Fish and Game database (numbered owl sites) and new sites that meet the state criteria by maintaining or enhancing habitat conditions over the long-term to the greatest extent practicable while protecting life and property. Use management guidelines in the species conservation strategy (or subsequent species guidance document; see Appendix H) to further evaluate protection needs for projects, uses and activities.”
- S20 which states that the forest service must “Maintain a limited operating period (LOP) prohibiting activities within approximately .25 miles of a California spotted owl nest site, or activity center where nest site is unknown, during the breeding season (February 1 through August 15), unless surveys confirm that the owls are not nesting. Follow the USDA Forest Service (1993, 1994 or subsequent) protocol to determine whether owls are nesting. The LOP does not apply to existing road and trail use and maintenance, use of existing developed recreation sites, or existing special-uses, such as recreation residence tracts. When evaluating the need to implement a limited operating period, site- and project-specific factors need to be considered.”
- S21 which states that “California spotted owl habitat that is lost to development for a compelling reason should be mitigated up to a two-to-one basis considering quality of habitat lost, number of territories affected, reproductive history of pair(s) displaced, location, and related factors. Development includes ski area creation or expansion, new roads or trails, special-use sites and corridors, new recreation or administrative facilities, land exchanges, etc. Mitigation land should be sought first within the mountain range where the impacts occur; if this is not possible, mitigation land should be acquired within the San Gabriel or San Bernardino Mountains.”

If the standards listed above are waived, the Forest Service may not refer to the species guidance documents, such as the species conservation strategy for the California spotted owl

when developing project-specific or activity-specific design criteria. The Forest Service may thus conduct fuels treatment in any manner it pleases, without considering the guidelines for applying fuels and forest health treatments in California spotted owl habitat within the WUI listed in the conservation strategy. Furthermore, fuels management can occur within the 0.25-mile buffer zone for spotted owl nest sites or activity centers. This is particularly problematic as there are approximately 85 of the historic 345 California spotted owl activity centers on the southern California forests in the WUI zone that could be affected by the fuels management (FEIS Vol. I, pg. 334) the impact from the fuels management is heightened when it is completed without considering guidelines for protection of the species. Furthermore, when the habitat is lost to fuels management, it will not have to be mitigated, as normally required by LMP standards.

Fuels management for community protection both on and off national forests cause habitat loss for spotted owls; habitat loss is one of the greatest threats to the species. Under all alternatives of the current land management plan, fuel treatment work is accelerated within the 15-year planning period (FEIS Vol. I, pg. 334). Prioritizing and conducting hazardous fuel mitigation without considering conservation guidelines undermines the standards for protection of vulnerable species, such as the spotted owl. The alternatives that implement vegetation treatments designed for resource protection and enhancement of habitat for the species-at-risk are not the preferred alternatives (Alternative 4a). Under alternatives 3 and 6 of the land management plan, there is potential for increased emphasis on vegetation treatments designed for resource protection and enhancement of habitat for species-at-risk, including the California spotted owl (FEIS Vol. I, pg.334). Furthermore, in the forest management plan there is only a moderate emphasis on implementing an integrated species conservation strategy for the protection of vulnerable species. However, the protection of threatened and endangered species is emphasized in all zones and activities that are neutral or beneficial to endangered species are planned (FEIS Vol I, pg. 44). The California spotted owl could greatly benefit from the additional planning that is required for threatened or endangered species.

Retention of snags and downed logs

The LMP standard S14, regarding the retainment of downed logs and snags, does not meet the guidelines set forth in the conservation strategy and is therefore inadequate. S14 states that “where available and within the capability of the site retain a minimum of six downed logs per acre (minimum 12 inches diameter and 120 total linear feet) and 10 to 15 hard snags per five acres (minimum 16 inches diameter at breast height and 40 feet tall, or next largest available). Exception allowed in Wildland/Urban Interface Defense Zones, fuelbreaks, and where they pose a safety hazard” (USDA 2005d).

Retaining only a minimum of six downed logs per acre with a minimum size of 12 inches in diameter and 120 linear feet, leads to the removal of logs that may provide important habitat for the spotted owl and its prey. The conservation strategy recommends that within PACs and HRCs at least 9 down logs of the largest logs available should be retained. Additionally retaining only 10 to 15 hard snags per five acres is not sufficient according to the conservation strategy, which states that the forest service should “retain 4 to 8 of the largest snags available per acre” (USFS Conservation Strategy, 2004, pg. 25).

The LMP is inconsistent with the Forest Service's Conservation Strategy for spotted owls, and thus provides insufficient protection for spotted owls throughout the four southern California forests. Due to the inadequacy of the LMP, the California spotted remains at risk of continued population declines and possible extinction, warranting listing under the ESA.

Target Shooting

The LMP lists wildfire and fuels treatment, as well as ski area expansion as threats to the California spotted owl (FEIS Vol I, pg. 367). However, the plan does not list target shooting as major threat to the spotted owl, despite evidence that shows target-shooting causes increased noise and disturbance to nesting owls and also results in direct mortality (USFS Conservation Strategy, 2004). Unmanaged recreation such as target shooting has been identified as one of the four threats facing national forests and grasslands of the United States, in part due to its impacts on biological diversity (FEIS Vol I, pg. 344). Despite threats, target shooting in the Los Padres National Forest is primarily open (FEIS, pg. 257), directly threatening the California spotted owl by leaving nesting sites at risk and preventing the recolonization of historic nesting sites (USFS Conservation Strategy, 2004).

The 2005 Forest Management Plan envisioned a target-shooting ban that allowed recreational target shooting only in designated areas and ranges. S36 of the land management plan states "Recreational target shooting will only be allowed in designated areas and ranges." This shooting ban has not been implemented, target shooting is still occurring in non-designated areas in the Los Padres National Forest, and the bans currently in place are solely a result of seasonal fire restrictions.

3. The Forest Plan Recognizes The Ongoing Threats to California Spotted Owls, Even With Full Plan Implementation

The LMP Environmental Impact Statement ranks the "threat category" for each species at risk in the Los Padres National Forest. The California spotted owl is listed as a threat category of 6, which indicates that the spotted owl is common or widespread within the plan area, and faces "substantial threats" from forest service activities (FEIS, Vol I, p. 132).

The California spotted owl is currently listed as "C" ranking for viability outcome for preferred alternative 4a in the LMP. A "C" ranking is defined as:

Suitable habitat is often distributed as patches or exists at low abundance, or both across NFS lands. Gaps, where suitable habitat is either absent or present in low abundance, are large enough to isolate some subpopulations, limited opportunity for species interactions. IN most of the species range there are opportunities for dispersal and interaction among subpopulations; however, some subpopulations are so disjunct or of such low density that they are essentially isolated." And for all land: "The combination of environmental (habitat) and population conditions only allows continued species existence in isolated patches relative to the historic distribution, with strong limitations on interactions among or within local populations.

(FEIS Vol. I, pg. 383). A “C” ranking indicates that even with the LMP in place, the California spotted owl “habitat only allows continued species existence in isolated patches relative to the historic distribution, with strong limitations on interactions among or within local populations on NFS land” (FEIS Vol. II, pg. 7).

Conclusion

Based on the conclusions and inadequacies of the LMP cited above, there is sufficient evidence to warrant listing of the California spotted owl as “endangered” under the ESA. The current LMP does not provide adequate protection for the California spotted owl in the Los Padres National Forest, or the other three national forests in southern California.

Los Padres ForestWatch appreciates the opportunity to comment on the proposed rule, and thank you for your time on this issue.

Best regards,



Jeff Kuyper, Executive Director
Monique Schafer, Conservation Intern

References

- USDA. 2005 Final environmental impact statement for land management plans Volume I: Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-074-A
- USDA. 2005b Final environmental impact statement for land management plans Volume II: Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-074-B
- USDA. 2005c Land Management Plan Part 1 Southern California National Forests Vision Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-075
- USDA. 2005d Land Management Plan Part 3 Design Criteria for the Southern California National Forests. Angeles, Cleveland, Los Padres, San Bernardino National Forests. USDA Forest Service, Pacific Southwest Region, R5-MB-080
- US Forest Service (USFS). 2004. Conservation Strategy for the California spotted owl (Strix occidentalis occidentalis) on the National Forests of Southern California. 34 pp.