



**Sierra Forest Legacy**

*Protecting Sierra Nevada Forests and Communities*



October 30, 2014

USDA Forest Service  
Pacific Southwest Region  
123 Club Drive  
Vallejo, CA 9459

**Via electronic mail**

**Re: Comments on Ch. 70 wilderness evaluation process for Sierra, Sequoia, and Inyo National Forests**

Dear Forest Supervisors & Regional Forester:

These comments are submitted on behalf of The Wilderness Society and the conservation organizations listed below. Thank you for meeting with representatives from our organizations at the Forest Plan Alternative Development Workshop last week. This letter follows up on some of our discussions from the workshop and raises other concerns about the ongoing wilderness evaluation process. We know that you are under a tight timeframe, so wanted to get you these comments expeditiously.

As you know, pursuant to the 2012 Planning Rule, 36 C.F.R. § 219.7(c)(2)(v), and as part of their Forest Plan revisions, the Sierra, Sequoia, and Inyo National Forests are in the process of identifying and evaluating lands that may be suitable for inclusion in the National Wilderness Preservation System (NWPS). Under the proposed Forest Service Handbook 1909.12 (FSH), Chapter 70, this involves a four-step process: (1) inventory of all lands that maybe suitable for inclusion in the NWPS; (2) evaluation of the wilderness characteristics of each inventoried area using the criteria in section 2(c) of the Wilderness Act of 1964; (3) analysis of some or all of the evaluated areas in the applicable National Environmental Policy Act (NEPA) document; and (4) a decision on which areas to recommend for inclusion in the NWPS. The Forest Service recently completed the inventory step and is now evaluating the wilderness characteristics of the inventoried areas.<sup>1</sup>

We have identified several significant flaws in the Forest Service’s ongoing evaluation process. First, as we highlighted at the workshop, the agency should provide an opportunity for meaningful public participation in the evaluation process by releasing the evaluation report for comment prior to the formulation of alternatives and publication of the draft environmental impact statement (DEIS). Second, the agency improperly excluded from detailed evaluation inventoried areas with authorized motorized trails. And finally, the agency’s “Wilderness Evaluation Narrative Outline” is problematic in a number of respects. These concerns are addressed in detail below.

#### **I. The Forest Service Should Release the Wilderness Evaluation Report for Public Comment Prior to Formulation of Alternatives.**

At the workshop last week, we discussed our concern with the sequence and timing of the Forest Service’s wilderness evaluation, formulation of alternatives, and decisions about which areas to carry forward for analysis in the DEIS.

According to the agency process document, the Forest Service plans to:

Prepare a document of the evaluation of areas that may be suitable for inclusion in the NWPS, and include the following:

- a. A description of the identification, inventory and evaluation process.
- b. Narrative descriptions of each area evaluated.
- c. A summary of the wilderness character for each area evaluated.
- d. Large scape maps of the evaluated areas.<sup>2</sup>

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<sup>1</sup> According to a process document on the Forest Service’s “Wilderness Inventory and Evaluation” webpage, the agency is following the draft, FACA-edited version of the revised FSH. USDA, Forest Service, Pacific Southwest Region, “Wilderness Inventory and Evaluation Process for Forest Plan Revision” (June 6, 2014), [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprd3803609.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3803609.pdf) (last visited October 16, 2014).

<sup>2</sup> See *supra* n.1.

That information will then be included as an appendix to the DEIS and “will be available for public review during the DEIS comment period.” This approach is problematic because it excludes meaningful public participation until the DEIS stage – after the evaluation is complete and the agency has determined which areas to carry forward for NEPA analysis. See FSH 1909.12, § 73. The FSH requires the agency to “ensure that the process for inventory and evaluation is transparent and accessible to the public for input and feedback” and make documentation of the evaluation “available for public participation opportunities.” FSH 1909.12, § 72.2. Importantly, the FSH then requires the responsible official to identify which areas to carry forward in the NEPA process “[b]ased on the evaluation and *input from the public participation opportunities.*” FSH 1909.12, § 73 (emphasis added). The agency’s planned approach here flips that sequence on its head and is contrary to the clear direction in the FSH.

The Forest Service should make public the evaluation report as soon as it is complete and provide an opportunity for public comment and participation prior to development of alternatives and the decision about which areas to carry forward for NEPA analysis. This approach will satisfy the guidance provided in the FSH and ensure that any problems with the agency’s evaluation are identified before they are carried over into the NEPA process.

This additional opportunity for public input is particularly important following the extremely truncated and inadequate comment period on the wilderness inventory and evaluation. In contrast to 45- and 90-day comment periods for other pilot forests, the agency here provided less than 3 weeks from the time it made its final inventory data available, and denied the conservation groups’ reasonable request for a short, 5-day extension.<sup>3</sup>

## **II. The Forest Service Applied an Improper Initial Screen to Exclude from Detailed Evaluation Approximately 19% of Inventoried Areas that Contain Motorized Uses on Authorized Trails.**

Proposed Chapter 70 of the FSH provides detailed guidance to the Forest Service on how to identify and evaluate wilderness-quality lands. First, the agency must inventory and identify “all lands that *may* be suitable for inclusion in the NWPS.” FSH 1909.12, § 71.1 (emphasis added). Notably, the inventory must include areas with motorized uses on certain types of forest roads or routes. FSH 1909.12, § 71.22a. Next, the agency must “comprehensively evaluate . . . the wilderness characteristics of *each* area identified during the inventory process” using the criteria in section 2(c) of the Wilderness Act. FSH 1909.12, § 72 (emphasis added).<sup>4</sup>

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<sup>3</sup> See Frances Hunt, Sierra Club, *et al.*, letter to Randy Moore, Regional Forester (Sept. 22, 2014) (request for extension) (attached).

<sup>4</sup> That criteria includes: (1) “the degree to which the area generally appears to be affected primarily by the forces of nature, with the imprints of man’s work substantially unnoticeable (naturalness);” (2) “the degree to which the area has outstanding opportunities for solitude or for a primitive and unconfined type of recreation;” (3) “how an area less than 5,000 acres is of sufficient size as to make practicable its preservation and use in an unimpaired condition;” and (4) “the degree to which the area may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.” FSH 1909.12, § 72.1; *accord* 16 U.S.C. § 1131(c).

In this case, however, the Forest Service excluded approximately 19% of the inventoried areas from detailed evaluation solely because those areas contain motorized uses on authorized trails. The agency provides the following explanation on its “Wilderness Inventory and Evaluation” webpage:

As a first step in the evaluation process, we identified authorized motorized trails on the final inventory maps. Areas with authorized motorized trails were examined and determined to lack wilderness character due to the prevalence of motorized activity and its impacts to the surrounding area. Additionally, there is a high level of commitment to maintaining these authorized motorized trails. As a result, each forest’s interdisciplinary team (IDT) identified areas within the inventory where wilderness character is impacted by the motorized trail system and highlighted these portions of the inventory (about 19%). Each area will be evaluated as a whole, but the focus for the detailed evaluation will be on the portions of the inventory that do not contain motorized trails (remaining 81%).<sup>5</sup>

This approach is contrary to the FSH, which clearly directs the agency to comprehensively evaluate *each* area identified during the inventory process. The purpose of the evaluation is to apply the criteria enumerated in section 2(c) of the Wilderness Act – through a transparent and publicly accessible process – to determine which of the inventoried areas may be suitable for inclusion in the NWPS. *See* FSH 1909.12, § 72. The agency is not permitted to short-circuit that process by modifying its inventory to exclude nearly 1/5 of the inventoried areas from detailed evaluation.

Moreover, the presence of authorized motorized activity in an area does not necessarily impede its wilderness character. For example, the Sequoia National Forest eliminated much of polygons 1387 (Rincon, or Golden Trout Additions) and 1394 (Woodpecker, or Domeland Additions), and the Sierra National Forest eliminated large portions of polygon 821 (Mounta Raymond), despite the fact that only a very small number of authorized motorcycle tracks cross these roadless areas. The evaluation process is designed, in part, to assess how those existing uses may affect the areas’ wilderness characteristics, including apparent naturalness or opportunities for solitude.<sup>6</sup> *See* 16 U.S.C. § 1131(c)(1)-(2); FSH 1909.12, § 72.1(1)-(2). In fact, Congress, the Forest Service, and other agencies have routinely determined that areas with authorized motorized activity possess wilderness characteristics and

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<sup>5</sup> USDA, Forest Service, Pacific Southwest Region, “Wilderness Inventory and Evaluation,” <http://www.fs.usda.gov/detail/r5/landmanagement/planning/?cid=STELPRD3803608> (last visited October 16, 2014); *see also* process document, *supra* n.1 (describing “early evaluation step” of identifying authorized motorized trails and recommending which inventoried areas, or portions of areas, with those trails to carry forward for evaluation).

<sup>6</sup> Even if the agency appropriately determines during the evaluation phase that authorized motorized or other uses impair wilderness characteristics, that determination should not necessarily eliminate the entire area from further consideration. In those instances, a full and fair evaluation must consider whether to close or “cherry-stem” the motorized routes (as is common throughout the NWPS), or otherwise modify the boundaries to evaluate whether the remaining portions of the area satisfy the criteria in section 2(c) of the Wilderness Act.

managed them to maintain their suitability for potential inclusion in the NWPS.<sup>7</sup> The Forest Service may not skip that assessment by making a blanket determination that areas with authorized motorized trails lack wilderness character.<sup>8</sup>

While there is no legal authority to support the Forest Service's approach, the process document on the agency's "Wilderness Evaluation and Inventory" webpage states that "[t]his early evaluation step is based on the criteria found in Ch. 70, 72.1(5)."<sup>9</sup> That provision of the FSH requires the Forest Service to:

5. Evaluate the degree to which the area may be managed to preserve its wilderness characteristics. Consider such factors as:
  - a. Shape and configuration of the area;
  - b. Legally established rights or uses within the area;
  - c. Specific Federal or state laws that may be relevant to availability of the area for wilderness or the ability to manage the area to protect wilderness characteristics;
  - d. The presence and amount of non-Federal land in the area; and
  - e. Management of adjacent lands.

FSH 1909.12, § 72.1(5). The process document provides no explanation of how this provision supports the agency's "early evaluation step." To the extent the Forest Service is suggesting that motorized trails or uses authorized under the relevant forest or travel management plan constitute "[l]egally established . . . uses within the area," that is an erroneous interpretation of the provision. "Legally established

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<sup>7</sup> See, e.g., Public Law No. 96-550, § 103, 94 Stat. 3221 (Dec. 19, 1980) (designating six wilderness study areas in New Mexico National Forests to be managed "to maintain their presently existing wilderness character and potential for inclusion in the [NWPS]: *Provided*, [t]hat . . . current levels of motorized . . . uses . . . shall be permitted to continue subject to . . . reasonable rules and regulations"); Payette National Forest, Land and Resource Management Plan, ROD-9, III-74, III-82 (2003), *available at* <http://www.fs.usda.gov/detail/payette/landmanagement/planning/?cid=stelprdb5035589> (recommending over 200,000 acres for wilderness designation and permitting existing motorized uses to continue in those areas unless it degrades wilderness values or causes resource damage or user conflicts); Bureau of Land Management (BLM) Manual 6320.06(A)(2)(d)(v) (BLM-identified Lands with Wilderness Characteristics may include motorized uses on designated routes); BLM, Little Snake Field Office, Record of Decision and Approved Resources Management Plan at 33 (Oct. 2011), *available at* [http://www.blm.gov/pgdata/etc/medialib/blm/co/field\\_offices/little\\_snake\\_field/rmp\\_revision/rod.Par.83246.File.dat/01\\_LS-ROD\\_Approved-RMP.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/co/field_offices/little_snake_field/rmp_revision/rod.Par.83246.File.dat/01_LS-ROD_Approved-RMP.pdf) (motorized activity permitted on designated roads and trails within Lands with Wilderness Characteristics).

<sup>8</sup> To the extent the Forest Service claims it *did* assess the areas' wilderness characteristics as part of its "early evaluation step" (e.g., the agency's "Wilderness Inventory and Evaluation" webpage claims that "[a]reas with authorized motorized trails were examined and determined to lack wilderness character due to the prevalence of motorized activity and its impacts to the surrounding area"), the agency did not document that evaluation – in contravention of the requirement that it ensure transparency and opportunity for public participation. See FSH 1909.12, §§ 70.6, 72, 72.2. Moreover, in addition to the impacts of motorized activity on the area, any such evaluation would have to assess the other criteria in section 2(c) of the Wilderness Act and section 72.1 of the FSH, which the agency does not claim to have done.

<sup>9</sup> See *supra* n.1.

rights or uses” should be interpreted to refer to rights and uses established by law<sup>10</sup> – not to agency planning or implementation decisions like designation of motorized trails in a travel management plan.

In any event, even if the Forest Service could consider the degree to which authorized motorized trails might affect the agency’s ability to manage the area to preserve its wilderness characteristics, that is a separate and distinct consideration from whether the area possesses wilderness characteristics in the first place. Detailed evaluation of an inventoried area’s wilderness characteristics – using the criteria enumerated in section 2(c) of the Wilderness Act and subsections 72.1(1)-(4) of the FSH – is a necessary precursor to the management considerations articulated in subsection 72.1(5).<sup>11</sup> Subsection 72.1(5) does not permit the Forest Service to skip the previous four subsections, as it did here.

In sum, there is no support for the Forest Service’s initial screen used to eliminate from detailed evaluation areas with authorized motorized trails. The agency must comprehensively evaluate 100% of the inventoried areas for their wilderness characteristics – not just the 81% that do not contain authorized motorized trails.

### **III. The Forest Service’s “Wilderness Evaluation Narrative Outline” Suffers from Numerous Infirmities.**

According to the Forest Service’s process document on its “Wilderness Inventory and Evaluation” webpage, the agency will evaluate each inventoried area “in narrative format using a wilderness evaluation template.”<sup>12</sup> Presumably, the document entitled “Wilderness Evaluation Narrative Outline,” transmitted to us by the agency, will serve as that template. That document provides: “[f]or each area identified and inventoried as outlined and documented in section 71, evaluate its potential suitability for inclusion in the NWPS using criteria included in the Wilderness Act of 1964, section 2(c), as follows: . . .” The outline that follows is a lengthy matrix of questions, considerations, and factors that generally track the criteria enumerated in section 2(c) of the Wilderness Act and section 72.1 of the FSH. However, as described below, certain of the questions, considerations, and factors are arbitrary or contrary to law, and we have concerns about how they will be applied to consistently and fairly evaluate the inventoried areas’ wilderness characteristics.

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<sup>10</sup> Such legally established rights or uses might include, for example, rights of access to private land inholdings, see Federal Land Policy & Management Act of 1976, Title V, 16 U.S.C. §§ 1761-1770; mining on patented or unpatented hard rock mining claims, see General Mining Law of 1872, 30 U.S.C. §§ 22, 26; ski area operations pursuant to special use permit, see National Forest Ski Area Permit Act of 1986, 16 U.S.C. § 497b; or American Indian treaty rights, see, e.g., *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 177, 193-95, 202 (1999) (affirming tribal hunting, fishing, and gathering rights established by treaty).

<sup>11</sup> As with the evaluation process, the agency should consider whether any management concerns can be avoided through boundary adjustment. See *supra* n.5.

<sup>12</sup> See *supra* n.1.

**A. It is unclear how the agency will utilize the outline to evaluate wilderness characteristics.**

As an initial matter, it is unclear how the Forest Service will utilize this lengthy matrix to evaluate the inventoried areas' wilderness characteristics. Pursuant to the FSH, the agency's evaluation process must be transparent and provide opportunities for public participation. See FSH 1909.12, §§ 70.6, 72, 72.2. The agency should clarify how it intends to balance and consider the numerous inputs in the outline in its evaluation of the inventoried areas and subsequent decision of which areas to carry forward for analysis in the relevant NEPA document. See FSH 1909.12, §§ 72-73.

Our concerns about how, exactly, the matrix will be used are grounded in past agency practice of improperly evaluating an area's wilderness character. For example, the Forest Service has often conflated the criterion that an area has "outstanding opportunities for solitude *or* a primitive and unconfined type of recreation." 16 U.S.C. § 1131(c)(2) (emphasis added). As the plain language of the Wilderness Act and the FSH make clear, this is an either/or criterion: "an area only has to possess one or the other," and "does not have to possess outstanding opportunities for both elements." FSH 1909.12, § 72.1(2). Accordingly, the agency's evaluation must consider the section of the outline addressing the degree to which the area has outstanding opportunities for solitude separately from the section of the outline addressing the degree to which the area has outstanding opportunities for a primitive and unconfined type of recreation.<sup>13</sup> That means that the Forest Service cannot, for example, aggregate, average, or otherwise conflate those sections of the outline in its evaluation of the inventoried areas.

**B. The outline improperly omits the "outstanding opportunities for . . . a primitive and unconfined type of recreation" criterion for evaluating wilderness characteristics.**

Pursuant to section 2(c)(2) of the Wilderness Act and section 72.1(c)(2) of the FSH, section 2 of the outline provides that the Forest Service must "[e]valuate the degree to which the area has outstanding opportunities for solitude or for [a] primitive and unconfined type of recreation." The outline omits, however, subsection 2.a – which presumably would address the primitive and unconfined recreation criterion – and instead skips right to subsection 2.b addressing the solitude criterion. We assume this is an inadvertent error in the version of the spreadsheet transmitted to us, but wanted to bring it to the agency's attention.

**C. The outline improperly evaluates apparent naturalness.**

Pursuant to section 2(c) of the Wilderness Act, the Forest Service must evaluate whether the inventoried areas "generally *appear*[]" to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." 16 U.S.C. § 1131(c)(1) (emphasis added); *accord* FSH 1909.12, § 72.1(1) (repeating language). Based on the plain meaning of this language, it has long been understood that this criterion refers to the area's "apparent naturalness," and not its ecological naturalness or integrity. In other words, the proper inquiry is whether the area generally appears natural to the average, reasonable visitor who is not familiar with the area's historical or ecological

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<sup>13</sup> See also *infra* Section II.B (the section of the outline addressing the primitive and unconfined recreation criterion is missing).

conditions.<sup>14</sup> Other agencies, including the U.S. Fish and Wildlife Service (FWS)<sup>15</sup> and the BLM,<sup>16</sup> use this interpretation.

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<sup>14</sup> As explained by two scholars, “[n]atural and wild conditions are not automatically recognized and appreciated by [wilderness] visitors during their experiences.” Chad P. Dawson & John C. Hendee, *Wilderness Management: Stewardship and Protection of Resources and Values* at 452 (4<sup>th</sup> ed. 2009) (excerpt attached). For example, “[m]ost visitors will not recognize unnatural successional changes, such as meadows invaded by trees or aspen being replaced by spruce, as a result of wildfire prevention and control.” *Id.* In fact, “[t]ruly natural conditions may not facilitate the degree of wildlife or scenic visibility most visitors desire. For example, timber harvest areas may improve visibility and concentrate wildlife more than dense forests.” *Id.*

<sup>15</sup> To satisfy the “naturalness” criterion, FWS guidance explains that “it must be possible to observe the area as being generally natural. FWS Manual, pt. 610, § 4.9, available at <http://www.fws.gov/policy/610fw4.html>. The Manual further explains:

- A. We make a distinction between an area’s “apparent naturalness” and “historic conditions” in the context of biological integrity, diversity, and environmental health. The term “historic conditions” refers to the condition of the landscape in a particular area before the onset of significant, human-caused change. The term “apparent naturalness” refers to whether or not an area looks natural to the average visitor who is not familiar with historic conditions versus human-affected ecosystems in a given area. . . .
- B. We avoid an approach to assessing naturalness that limits wilderness designation only to those areas judged pristine. Land that was once logged, used for agriculture, or otherwise significantly altered by humans may be eligible for wilderness designation if it has been restored or is in the process of being restored to a substantially natural appearance.

FWS Manual, pt. 610, § 4.9.

<sup>16</sup> With respect to evaluating an area’s naturalness, BLM’s Manual for Conducting Wilderness Characteristics Inventory directs the agency first to “[d]etermine if the area appears to be in a natural condition. [] The Area must appear to have been affected primarily by the forces of nature, and any work of human beings must be substantially unnoticeable.” BLM Manual 6310.06(C)(2)(b)(i), available at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_manual.Par.38337.File.dat/6310.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_manual.Par.38337.File.dat/6310.pdf). Next, BLM must “[d]ocument noticeable human impacts within the area,” and, “[i]f several minor impacts exist, summarize their cumulative effect on the area’s degree of apparent naturalness.” BLM Manual 6310.06(C)(2)(b)(ii). The Manual provides detailed guidance on how to assess apparent naturalness:

- 1) The review of human impacts will assess the presence or absence of apparent naturalness (i.e., do the works of humans appear to be substantially unnoticeable to the average visitor?). There is a difference between an area’s natural integrity and its apparent naturalness as explained below.
  - a) Natural integrity refers to the presence or absence of ecosystems that are relatively unaffected by modern human activities.
  - b) Apparent naturalness refers to whether or not an area looks natural to the average visitor who is not familiar with the biological composition of natural ecosystems versus human-affected ecosystems.
- 2) Caution should be used in assessing the effect of relatively minor human impacts on naturalness. Some human works are acceptable so long as they are substantially unnoticeable. Avoid an overly strict approach to assessing naturalness. . . .

BLM Manual 6310.06(C)(2)(b)(ii).



In evaluating apparent naturalness, however, the Forest Service's outline includes a series of questions that directly address the inventoried areas' ecological integrity:

- 1.b.i Does the area have ecological integrity?
  - 1.b.i.1 Is species composition/succession generally the result of natural processes or have they been manipulated by humans?
- 1.b.ii What are the hydrologic conditions of the area?
- 1.b.iii What is the air quality of the area?
- 1.b.iv What are the soil conditions of the area?
- 1.b.v What is the condition of meadow and riparian areas within the area?

These measures of ecological integrity may be relevant to whether the area "also contain[s] ecological, geological, or other features of scientific, educational, scenic, or historical values." 16 U.S.C. § 1131(c)(4).<sup>17</sup> But they are not proper considerations with respect to the area's apparent naturalness.

This issue could be remedied, however, by shifting the focus of the inquiry. For example, while "air quality" or "soil conditions" is not a proper measure of an area's naturalness, the *appearance* of the area's air or soil resources to the average visitor unfamiliar with historic or ecological conditions *is* a proper consideration. If the air *appears* smoggy or polluted or the soil *appears* heavily eroded or compacted to the average visitor, the area may not satisfy the naturalness criterion.

The naturalness section of the outline includes other considerations that are not tailored to the relevant inquiry. In particular, the outline includes a series of questions about the existence of past or current human activities or improvements (e.g., vegetation management, grazing, fish stocking, logging, etc.). The relevant inquiry, however, is not the presence of these activities, but rather their *effect* on the area's apparent naturalness. As with considerations like air quality or soil conditions, if past or current human activities or improvements have impacted the area such that it no longer *appears* natural to the average visitor unfamiliar with the area prior to those activities or improvements, then the area may not satisfy the naturalness criterion. The mere presence of those human activities or improvements, however, is not dispositive. For example, a decades-old timber harvest with re-vegetation occurring is often unnoticeable to the average visitor. Accordingly, the agency should revise this portion of its outline to consider whether the area *appears* natural *in spite of* human activities or improvements that may be present.<sup>18</sup>

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<sup>17</sup> See also FSH 1909.12, § 72.1(4) (making clear that "[t]hese values are not required to be present in an area for the area to be recommended for inclusion in the NWPS, but their presence should be identified and evaluated where they exist").

<sup>18</sup> Certain questions in the outline are focused on the proper inquiry, such as "what [e]ffects do [particular improvements] have to the naturalness of the surrounding area" or "[a]re [those improvements] substantially noticeable." See, e.g., §§ 1.c.i – 1.c.iii, 1.c.v – 1.c.vi, 1.c.x. Many others, however, are not. See, e.g., §§ 1.a.i.3 – 1.a.i.4, 1.a.ii.3, 1.c.iv, 1.c.vii – 1.c.ix, 1.c.xii.

In sum, the Forest Service should revise the naturalness section of its outline to properly evaluate the inventoried areas' *apparent* naturalness, as opposed to their historical condition or ecological integrity.

**D. The outline improperly considers sights, sounds, and activities outside the inventoried areas.**

With respect to the inventoried areas' outstanding opportunities for solitude, subsection 2.b.v of the outline asks whether "sights and sounds from outside the area are present." Similarly, subsection 1.c.xi asks whether there are "developments or activities immediately adjacent to the area" that affect its naturalness. As explained in detail at pages 11-13 of Sierra Forest Legacy *et al.*'s "Comments on Notice of Intent and Detailed Proposed Action for the Forest Plan Revisions on the Inyo, Sequoia and Sierra National Forests," outside sights, sounds, or activities are not proper considerations in evaluating an area's wilderness characteristics. The relevant section of those comments is attached and incorporated herein by reference.

**E. The outline's consideration of other designations is not a criterion for evaluating wilderness characteristics.**

Finally, section 5 of the outline considers "the degree to which the area may be managed to preserve its wilderness characteristics." Subsections 5.a through 5.e generally track the factors enumerated in section 72.1(5) of the FSH (shape and configuration of the area, legally established rights or uses, relevant federal or state laws, non-federal lands, and management of adjacent lands). Subsection 5.f, however, asks whether there are "any other designations overlying the area," including Wild and Scenic Rivers, Pacific Crest Trail or other designated trail segments, National Monuments, National Recreation Areas, Special Management Areas, or Research Natural Areas. With respect to each of these designations, the outline asks whether there are "provisions of the designation that could potentially [a]ffect wilderness character or the ability to manage and protect wilderness" and whether "multiple designations [could] enhance the wilderness protections."

These "other designation" considerations are not grounded in section 2(c) the Wilderness Act or the FSH, and the Forest Service should make clear how it intends to apply them in its evaluation. For example, the existence of a Wild and Scenic River or Pacific Crest Trail segment might be relevant to an area's outstanding opportunities for a primitive and unconfined type of recreation. It would be improper, however, for the agency to rely on other designations as a substitute for recommended wilderness protection.

**IV. Conclusion**

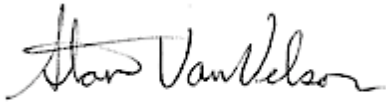
Thank you for your attention to these issues. Please include these comments in the administrative record for the forest plans. If you have questions about these comments or would like to discuss them in more detail, please contact Alison Flint ([alison\\_flint@tws.org](mailto:alison_flint@tws.org); 303-802-1404).

We look forward to ongoing engagement with the Forest Service as it completes the wilderness evaluation process and determines which areas to carry forward for further NEPA analysis and potential recommendation for inclusion in the NWPS.

Sincerely,



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