

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF PLUMAS TO PARTICIPATE IN COALITION DEFENDING U.S. FISH & WILDLIFE SERVICE DECISION THAT CALIFORNIA SPOTTED OWL DOES NOT WARRANT LISTING UNDER FEDERAL ENDANGERED SPECIES ACT

WHEREAS, the 2020 wildfire season in California is by far the most destructive on record, with over 4.1 million acres burned, over 9,200 structures destroyed, five of the six largest fires in California history, and at least 31 fatalities;

WHEREAS, scientific consensus as well as Governors Newsom and Brown, among others, agree that effective fire resilience requires large-scale fuels reduction, particularly combinations of mechanical thinning with prescribed burning;

WHEREAS, catastrophic fire is the single largest threat to forest-dwelling wildlife in California, by at least one order of magnitude;

WHEREAS, on November 8, 2019, the United States Fish and Wildlife Service ("Service") made a finding, pursuant to 16 U.S.C. § 1533(b)(3)(B)(i), that listing the California Spotted Owl, *Strix occidentalis occidentalis* ("CSO"), as threatened or endangered under the Endangered Species Act ("ESA") is not warranted;

WHEREAS, the ESA requires that decisions whether to list species shall be made "solely on the basis of the best scientific and commercial data available," 16 U.S.C. § 1533(b)(1)(A), and that listing determinations may take into account "the present or threatened destruction, modification, or curtailment of" the species' "habitat or range"; "overutilization" of the species "for commercial, recreational, scientific, or educational purposes;" the effects of "disease or predation;" the "inadequacy of existing regulatory mechanisms;" or "other natural or manmade factors affecting" the species' "continued existence," 16 U.S.C. § 1533(a)(1);

WHEREAS, the Service reviewed all the relevant listing factors and prepared, in June 2019, an extensive Species Status Report prior to making its November 2019 finding, and subjected the Report to scientific peer review;

WHEREAS, the Service's analysis "used the three conservation biology principles of resiliency, redundancy, and representation," and acknowledged "there are several factors that contribute to the current condition and pose a risk to future viability of the species" (Report at *ii*);

WHEREAS, the Service reviewed and analyzed potential species-level viability under three different scenarios, including a worst-case scenario, a current conditions scenario, and a scenario involving improved conditions (Report at *iii-v*);

WHEREAS, under all scenarios the Service reviewed and incorporated the best available science from the Intergovernmental Panel on Climate Change ("IPCC") and assessed the viability of the species within the range of future climate scenarios for the next 40–50 years (Report at 71);

WHEREAS, the Service's analysis considered all potential threat factors for the CSO, including Large-Scale High-Severity Fire; Tree Mortality; Drought; Interannual Climate Variability; Climate Change; Clearcutting; Mechanical Thinning; Salvage Logging; Barred Owls; Contaminants; Disease/Parasites; Development; and Recreation; and the effect of these threats on individual and population-level CSO needs, including prey, multi-layered high canopy cover, large trees, coarse woody debris, forest heterogeneity, nest trees, patch size, dispersal, survival, fecundity, occupancy, and population growth (Report at 72–107);

WHEREAS, the CSO currently exhibits high representation and moderate redundancy throughout its range, with over half the regions of the Sierra Nevada range in "moderate" or "high" condition despite the persistence of threat factors over the past 20–30 years;

WHEREAS, the Service's assessment indicated that with modest conservation measures, the CSO will very likely retain sufficient resilience, representation, and redundancy to avoid threats to its viability for the next 40–50 years;

WHEREAS, achieving the modest conservation measures necessary to ensure the species' viability requires increasing the amount of active forest management within the range of the CSO;

WHEREAS, nearly one-third of the forestland within the range of the CSO is in private ownership, and private timberland owners are taking significant measures to aid CSO conservation, including but not limited to candidate conservation agreements with assurances ("CCAAs"), habitat conservation plans ("HCPs"), and efforts with USFS, CAL FIRE, and organizations to implement a system of fuel breaks across federal, state and private forestland, and other measures;

WHEREAS, the State of California and U.S. Forest Service have entered a shared stewardship agreement to maintain and restore healthy forests to reduce risk of catastrophic wildfire, protect fish and wildlife habitat, enhance biological diversity, improve climate resilience, sequester carbon, improve recreational opportunities, and general good jobs and economic opportunities.

WHEREAS, listing the species under the ESA would hamper efforts on private, State and federal lands in California to take management actions to reduce wildfire risk and protect human health and safety, natural resources and the environment, and would increase costs and tie to implement necessary fuelbreak construction projects, fuels management/reduction projects; commercial timber harvesting projects, including thinning; and public infrastructure projects and land management actions to protect them;

WHEREAS, on August 17, 2020 a lawsuit captioned *Sierra Forest Legacy et al v. U.S. Fish & Wildlife Service et al*, No. 5:20-cv-05800-BLF, was filed in the United States District Court for the Northern District of California, challenging the Service's decision regarding listing the CSO;

WHEREAS, Plumas County has a significant interest in maintaining the ability of federal, state, and private timber managers to reduce fuels and increase forest resiliency throughout the County;

WHEREAS, interested stakeholders including CalForests, have retained the law firm of Baker Botts LLP to intervene in the above lawsuit, and the County may join the intervention efforts without expenditure of County funds;


NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED, by the Plumas County Board of Supervisors, that the County Counsel is directed to engage with Baker Botts LLP and take all necessary actions for the County to intervene in the CSO lawsuit.

PASSED AND ADOPTED by the Plumas County Board of Supervisors, this 3rd day of November, 2020, by the following vote:

AYES: SUPERVISORS SIMPSON, THRALL, ENGEL, GOSS

NOES: NONE

ABSENT: NONE



Chair, Board of Supervisors

ATTEST:



Clerk of the Board of Supervisors