

**File Code:** 1570**Date:** March 20, 2023**Route To:****Subject:** Objection Response for the Species of Conservation List Associated with the Tonto National Forest Plan Revision**To:** Regional Forester, Southwestern Region

This letter documents my response to the objection filed regarding the identification of species of conservation concern for the Tonto National Forest Land Management Plan revision.

The responsible official issued the draft Record of Decision for the revised land management plan on March 25, 2022. After correcting a web address in the original notice, the responsible official republished a Notice of Opportunity to Object on July 8, 2022, initiating a 60-day objection filing period. The objection process followed the Planning Code of Federal Regulations (CFR) 36 CFR 219, regulatory requirements for land management plan revisions, which includes an objection filing period and an interested person filing period. The 36 CFR 219 states that objections specific to the identification of species of conservation concern be reviewed by the Chief of the Forest Service or that authority may be delegated. The authority has been delegated to me in accordance with the regulation at 36 CFR 219.56(e)(2).

One objector, Freeport McMoran, Inc., takes issue with the rationale provided for the species of conservation concern list. I would like to thank the objector for their interest in management of the Tonto National Forest and participation throughout the entire planning process.

Enclosed is my objection response, which is the outcome of an extensive review of the issue. This response reflects my findings following review of the written objection and statutory and regulatory requirements. My response contains instructions to implement and is the final determination of the U.S. Department of Agriculture on the species of conservation concern list objection.

I would like to thank regional and forest level experts and your planning team, whose expertise was evident in the quality of the documentation and the thoughtful approach that went into the identification of species of conservation concern.



By copy of this letter and notification of availability on the Tonto National Forest website, I am notifying all parties to this objection response, including the objectors and interested persons.

X JACQUELINE EMANUEL Digitally signed by
JACQUELINE EMANUEL
Date: 2023.03.20 13:35
-04'00'

JACQUELINE EMANUEL
Reviewing Officer for the Chief

Enclosure

cc: Chris Franks, Neil Bosworth, Wendy Jo Haskins, Jennifer McRae, Ariel Leonard, Kenna Belsky, Joe Otts

TONTO NATIONAL FOREST PLAN REVISION

OBJECTION RESPONSE FOR SPECIES OF CONSERVATION CONCERN LIST

OVERVIEW

One objector, Freeport-McMoRan Inc., takes issue with the rationale provided for the Species of Conservation Concern (SCC) list. Below is a summary of the objector's concerns, followed by an assessment of whether and how the project record meets planning rule requirements, concluding with instructions for the responsible official.

ISSUE: LACK OF CLEAR RATIONALE FOR ADDITIONS

CONCERN STATEMENT

Citing the Wildlife, Fish, and Plants content in Ch. 2, pp. 116-119 of the forest plan, the objector states that it is not clear how each of the 52¹ species of conservation concern meet the regulatory definition of "species of conservation concern", including a determination that best available scientific information indicates substantial concern about each species' capability to persist over the long-term in the plan area. Objector references the forest's response to comments submitted on the draft EIS on this issue (FEIS, Vol. 3, pg. 291, 2816-82), stating the response is insufficient.

REMEDY PROPOSED BY OBJECTOR

The determination of SCC should be clarified in the forest plan and species removed from the species of conservation concern list that do not meet the regulatory definition.

ASSESSMENT AND CONCLUSION

The objector provided comments on the draft Plan/draft EIS that were similar to issues raised in their objection. In response to the comment (FEIS, Vol. 3, pg. 291, 2816-82) the forest cites the Final Assessment Report of Ecological Conditions, Trends, and Risks to Sustainability, volume I, chapter 7, At-risk Species: Identifying and Assessing At-risk Species in the Plan Area. The "Assessment Report" that the Forest cites is a publicly available document.

The Assessment Report fully describes the criteria used to identify SCC, based on the 2012 planning rule requirements and Forest Service Handbook policy, and the process used to discern the list for the forest (see pp. 328-355). This part of the project record addresses the objector's overarching concern.

For some species, however, the project record does not clearly identify the rationale for changes made between the Assessment Report (2017) and the 2021 SCC list. In particular, there are

¹ The objector actually cites 53 SCC, but this appears to be a mistake. The 2021 SCC list contains 52 species.

seven species that appear on the Assessment Report's Table 112 (*Potential species of conservation concern removed from further analysis and rationale for removal*) (see pg. 340) that appear on the 2021 SCC list. The project record includes documentation that supports a second concurrence (2019) and a third concurrence (2020), whereby the Forest Supervisor requested to update the SCC list and the Regional Forester granted those requests, but these documents were not publicly available on the forest website. These iterative concurrences are consistent with the SCC list being a "living" list that is expected to be updated over time, including after plan revision. However, the rationale provided for these seven species in the third concurrence does not fully address the rationale provided in the Assessment Report that explained why they were not initially identified as SCC.

In addition, for five of these species, there is a lack of clarity in the third concurrence regarding their presence in the plan area and/or regarding substantial concern about their ability to persist over the long term in the plan area (reference criteria at FSH 1909.12, Chapter 10, section, 12.52c). As the second and third concurrences were not made publicly available (and there is no requirement to do so), it is understandable to see public confusion regarding the iterative SCC process.

The aforementioned species, including specific review findings for each, are detailed below:

1) Sierra Ancha talussnail

- a) Identified in the Assessment Report as a potential SCC removed from further analysis, but it appears in the 2021 SCC list. The project record does not address the previously stated rationale and clearly document what new information or changed circumstance has occurred.
- b) Per the third concurrence, there was a new specimen observance, but it is unclear whether there is substantial concern for its ability to persist in the plan area.

2) A mayfly

- a) Identified in the Assessment Report as a potential SCC removed from further analysis, but it appears in the 2021 SCC list. The project record does not address the previously stated rationale and clearly document what new information or changed circumstance has occurred.

3) Ancha mountain snail

- a) Identified in the Assessment Report as a potential SCC removed from further analysis, but it appears in the 2021 SCC list. The project record does not address the previously stated rationale and clearly document what new information or changed circumstance has occurred.
- b) Identified in the second concurrence (2019) as having one known occurrence in 1949. It is unclear in the third concurrence that the species is established or becoming established on the planning unit and that there is a substantial concern for its ability to persist in the plan area.

4) Fringed myotis

- a) Identified in the Assessment Report as a potential SCC removed from further analysis, but it appears in the 2021 SCC list. The project record does not address the previously stated rationale and clearly document what new information or changed circumstance has occurred.
 - b) Identified as NatureServe G4 ranking. Clearer documentation is needed for why there is substantial concern for this species with a G4 ranking (see FSH 1909.12, Chapter 10, section, 12.52d).
- 5) Pale Townsend's Big Eared Bat
- a) Identified in the Assessment Report as a potential SCC removed from further analysis, but it appears in the 2021 SCC list. The project record does not address the previously stated rationale and clearly document what new information or changed circumstance has occurred.
- 6) Richinbar Talussnail & Roosevelt Talussnail
- a) Identified in the Assessment Report as a potential SCC removed from further analysis, but it appears in the 2021 SCC list. The project record does not address the previously stated rationale and clearly document what new information or changed circumstance has occurred.
 - b) Documentation says status of both species is unknown and likely would continue to be unknown. There is no clear documentation of data or survey that demonstrates substantial concern for persistence in the plan area.

Based on the above information, as documented in the project record, I find that clearer documentation is needed in the project record for these seven species identified in the 2021 SCC list. I also find that this documentation of rationale should be provided to the public on the forest website.

INSTRUCTIONS

Provide an account of the new information or changed circumstances that resulted in the inclusion of the seven species initially listed as not appropriate as SCC in the Assessment Report (a white paper or an update to the SCC list is sufficient for documentation). For those species with asterisks (*), also provide clearer documentation of their presence in the plan area (i.e., established or becoming established) and that there is substantial concern for their ability to persist in the plan area.

- Sierra Ancha talussnail*
- A mayfly
- Ancha mountain snail*
- Fringed myotis*
- Pale Townsend's Big-eared Bat
- Richinbar talussnail*
- Roosevelt talussnail*

Provide this additional documentation and rationale for the Tonto SCC list on the Forest's SCC webpage.