ATTORNEY GENERAL’S APPEAL AND STATEMENT OF REASONS

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APPEAL TO THE REGIONAL FORESTER OF
THE UNITED STATES FOREST SERVICE

In the Matter of the Decision of Forest Supervisor
Gloria D. Brown to Approve the Record of
Decision and the Final Environmental Impact
Statement for Oil and Gas Leasing in Los Padres
National Forest

PEOPLE OF THE STATE OF CALIFORNIA, EX
REL. BILL LOCKYER, ATTORNEY GENERAL

NOTICE OF APPEAL

Decision Appealed: The People of the State of California, ex rel. Bill Lockyer
(“Attorney General”) appeal the Record of Decision for Oil and Gas Leasing in Los Padres
National Forest (“ROD”) signed by Forest Supervisor Gloria D. Brown on July 15, 2005 and the
Final Environmental Impact Statement for Oil and Gas Leasing in Los Padres National Forest
(“FEIS”) published on August 2, 2005. This Notice of Appeal is filed pursuant to 36 C.F.R. part
215.8 (formerly 36 C.F.R. part 217.)
STATEMENT OF REASONS

The California Attorney General submits this statement of reasons pursuant to his independent authority under the California Constitution, common law, and statutes to represent the public interest. Along with other California state agencies, the Attorney General has the power to protect the natural resources of the State from pollution, impairment, or destruction. See Cal. Const. Art. V, sec. 13; Cal. Gov. Code secs. 12511, 12600-12; D’Amico v. Board of Medical Examiners, 11 Cal.3d 1, 14-15 (1974). This appeal and statement of reasons is made on behalf of the Attorney General and not on behalf of any other California agency or office.

I. INTRODUCTION

Although the Record of Decision’s choice of the “New Preferred Alternative” as its alternative of choice is an improvement over the range of alternatives presented in the DEIS, it still does not satisfy the requirements of the National Environmental Policy Act ("NEPA") or the National Forest Management Act of 1976 ("NFMA"), 16 U.S.C. § 1600 et seq. Further, oil and gas development in the Los Padres National Forest ("Los Padres") makes little sense for several reasons. First, the Forest Service proposes to designate specific lands available for leasing prior to completion of a comprehensive forest plan revision that will involve balancing all competing uses of forest land for the maximum benefit to the public. In this sense, the FEIS puts the “cart before the horse,” both legally and in terms of rational forest planning. The agency has not adequately described the cost/benefit of proceeding with oil leasing, nor has it described the need or purpose in proceeding with oil leasing when the projected return is so low compared to the environmental impact. At best, it seems wasteful to approve an oil drilling plan when the Forest Service is in the process of preparing a comprehensive forest management plan; more likely, however, approval of the leases prior to preparation of the "plan" suggests that it would not be a plan at all, but rather a post hoc rationalization for a current decision to allow oil and gas leasing at these locations. ¹

¹ This is especially true, since the expectation is that the Forest Plan for Los Padres will simply incorporate the instant Oil and Gas Drilling Plan, without independently conducting the balancing of interests required by NFMA of the elements of a Forest Plan.

2.
Second, this project presents significant potential risks to the viability of the California Condor, a species that just two decades ago hovered on the brink of extinction and is now making a recovery within Los Padres. Any plan for the best uses of the forest must have, at its forefront, the impacts on the Condor recovery project. Third, the miles of new oil and gas pipelines and new access roads that will be required present human health and environmental impacts that have not been adequately analyzed. Balanced against these significant environmental impacts is the minimal benefit of producing relatively small amounts of gas and oil. There does not appear to be a pressing demand by bidders for leases in Los Padres and the amount of oil estimated to be present by the Forest Service is quite small.

The Attorney General’s Office has a long history of participation in national forest planning in California that reflects the importance of national forests and forest resources to the people of this State. We have consistently supported comprehensive, regional planning approaches designed to protect and preserve all the values of the national forest resources within the State. Indeed, it may be that an ecosystem-based approach is the only one that would enable the Forest Service to comply with all applicable environmental laws. See, Seattle Audubon Society v. Lyons, 871 F.Supp. 1291, 1311 (W.D. Wash. 1994) ("Given the current condition of the forests, there is no way the agencies could comply with the environmental laws without planning on an ecosystem basis."). aff’d, Seattle Audubon Society v. Moseley, 80 F.3d 1401 (9th Cir. 1996).

In determining that it must proceed with this leasing decision in advance of completion of the forest plan amendment process already underway, the Forest Service is not complying with applicable legal authority. Proceeding in this fashion is inconsistent with the purpose and requirements of the NFMA and the regulations adopted pursuant to the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (“Reform Act”), codified at 36 C.F.R. Part 228 Subpart E.

In addition, this FEIS fails to adequately analyze a number of potential impacts of the

[2. Other than the old 29 lease applications that were “grandfathered” at the time of the Reform Act, there have only been six “Expressions of Interest.” FEIS at p. 1-8.]

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leasing proposal, including the impacts of constructing new oil and gas pipelines (including the possibility of catastrophic spills) and building new access roads, as well as the effects of additional drilling in the Sespe High Oil and Gas Potential Area ("HOGPA") on the California Condor, in violation of the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 et seq.

II. ISSUES ON APPEAL

A. Identifying specific lands for leasing prior to completion of the revised Forest Plan is inconsistent with the purpose and requirements of the NFMA.

At the same time that it has released this FEIS, the Forest Service is in the midst of a multi-year process – commenced in 1999 after years of assessment and analysis – to revise and amend the current Los Padres National Forest Land and Resource Management Plan ("Forest Plan"), as part of a Southern California “Conservation Strategy.” The strategy is designed to identify how all uses of forest land can be accommodated and at the same time provide regional ecosystem health and protection of endangered and sensitive species.

The strategy includes updating forest plans for the Angeles, Cleveland, and San Bernardino National Forests, as well as for Los Padres, because the Forest Services’ analytical studies have identified a number of areas where the existing forest plans do not adequately protect threatened, endangered and sensitive species. 66 Fed. Reg. 48856. A draft EIS to support the revised forest plans was released last summer. (Our Office provided comments on the this draft EIS in August 2004.)

Given the extensive scientific and legal record the Forest Service has developed in support of the need to revise the Forest Plan in order to develop consistent and appropriate management direction for Los Padres, a decision to commit particular lands to oil and gas development before the new management prescriptions are in place is, from a planning perspective, premature and illogical. Such an approach is directly contradictory to the purpose and requirements of NFMA. There is no reason to rush into oil and gas leasing decisions when a
3. The revised Forest Plan will be finalized “no earlier than Fall 2005.” FEIS at1-15.

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What the Forest Service proposes in deciding to lease specific lands prior to completion of ongoing forest plan amendments is directly contrary to this statutory and regulatory scheme. Rather than making decisions about forest-wide oil leasing and its impacts in the context of a balancing of the competing demands upon Los Padres, the Forest Service has improperly undertaken a separate process, divorced from consideration of all the information and factors currently being simultaneously evaluated in the update process. *Nevada Land Ass’n v. U.S. Forest Service*, 8 F.3d 713, 719 (9th Cir. 1993) (the NFMA “directs the [Forest] Service to manage conflicting uses of forest resources”). This approach is particularly improper given the acknowledged inadequacies of the existing plan. 66 Fed. Reg. 48856.

The need to wait for the revision to the Forest Plan for Los Padres is no mere procedural hurdle. It is the Forest Management Plan that provides a full discussion of the balancing of the competing demands upon national forests. *Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1511 (9th Cir. 1992). This includes taking into consideration the evolving social and economic demands upon the forest. 36 C.F.R. § 219.1(b)(3). It is through the forest planning process required by the NFMA that the Forest Service determines the best use of the forest lands in relation to all possible values for the same lands, including protection of biological and aesthetic resources and recreational uses.

There is no valid reason for circumventing the forest planning process. The Forest Service has admitted that the amount of oil estimated to be present in Los Padres under the most optimistic development scenario is quite small. Frequently Asked Questions at P. 3, Q 18 & 19. There appears to be scant demand for these leases by bidders. Nonetheless, the Forest Service is proposing to irretrievably commit specific areas to oil and gas development, in the absence of full information, thereby unnecessarily foreclosing many other options for the uses of those lands. By proceeding in this fashion, the Forest Service has failed to comply with the NFMA and has deprived the public of a meaningful opportunity to evaluate the full impacts of the decision. *Oregon Environmental Council v. Kunzman*, 817 F.2d 484, 492 (9th Cir. 1987).
C. The Forest Service is not legally compelled to authorize oil and gas leasing in advance of the currently ongoing Forest Plan update.

The Forest Service believes that it is required to be “proactive” in analyzing lands available for leasing for oil and gas drilling. FEIS at p. 1-6. Apparently, Los Padres was identified as a “high priority” for study in 1990 because of historical oil and gas production that had occurred in some areas of the Forest. Frequently Asked Questions at p. 1, Q-1. From the documentation supporting the leasing proposal, it appears that the Forest Service believes it is compelled to proceed with the leasing decision at this time, perhaps because of a Wyoming federal district court case interpreting the Energy Security Act of 1980, Mountain States Legal Foundation v. Hodel, 668 F.Supp. 1466, 1472 (D.Wyo. 1986).

This belief, however, is misplaced; Mountain States Legal Foundation does not compel this leasing decision for two reasons. First, the Mountain States case is distinguishable on its facts, as the Forest Service is not faced with a similar situation with respect to Los Padres leasing. Second, the case was decided prior to the effective date of the Reform Act and its implementing regulations, and these regulations now expressly require consistency with forest plan requirements before the Forest Service may make decisions about leasing specific lands. There, plaintiffs challenged a decision to suspend and delay mineral leasing pending the completion of the initial forest plan required under the NFMA. Mountain States Legal Foundation v. Hodel, 668 F.Supp. at 1469. The court found that the suspension violated the Energy Security Act’s requirement to process pending applications for leases notwithstanding the “current status” of a forest plan being prepared under the NFMA. Id. at 1472.

The Energy Security Act of 1980, however, was passed only four years after the NFMA, at a time when the first generation of forest plans under the NFMA had not yet been prepared. Although no direct legislative history of the relevant section from the 1980 legislation appears available, it is reasonable to conclude that there was likely a Service-wide backlog of uncompleted plans only four years following enactment of the comprehensive requirements.
4. In *Mountain States*, the Regional Forester apparently suspended leases that, in some cases, had already been forwarded to the BLM for issuance or had already been issued. *Mountain States v. Hodel*, 668 F.Supp. at 1471-2. (In “suspending” the leases, the Forest Service requested that BLM “return” already approved lease files and, in at least one case, actually “revoke” an already issued lease.) The FEIS discloses nothing similar occurring here.

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5. *Mountain States* is questionable authority in another regard. The court there also held – relying on the earlier case of *Mountain States Legal Foundation v. Andrus*, 499 F.Supp. 383 (D.Wyo. 1980) – that the failure to process lease applications was an unlawful "withdrawal" of public land in violation of the Federal Land Policy and Management Act of 1982, 43 U.S.C. section 1714. The holding of the *Andrus* case, however, was roundly criticized and ultimately rejected by the Ninth Circuit in *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1229-30 (9th Cir. 1988), cert. denied 489 U.S. 1066 (1989). Thus, a significant basis for the court’s invalidation of the government’s action has been overruled.

9.

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D. The FEIS fails to adequately analyze potential environmental impacts in violation of the National Environmental Policy Act.

Under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321, et seq., decisions undertaken by federal agencies must be based on complete analysis so that they are fully informed and well-considered. *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 558 (1978). This FEIS falls far short of this standard, particularly with respect to its analysis of impacts from pipeline spills, the increase in infrastructure within and adjacent to the Forest boundaries, and adverse impacts to the California Condor.

One of the most significant flaws in the FEIS is its failure to discuss, in more than passing fashion, the potential impacts of ruptures, spills, and leaks from the oil and gas pipelines that will be needed to link wells and tanks and to carry the product to refineries or markets, and the disturbance to the natural setting caused by the construction of access roads. The production of oil and gas from the new Los Padres leasing will not only necessarily result in the construction of new pipelines, but will increase the use of existing ones.

While the FEIS has several one-sentence references at various places within its pages regarding the possibility of leaks from pipelines, none of these brief statements indicate or analyze the potential seriousness of these spills. FEIS at p. 4-135, 4-136. The risk of spills and leaks is more than theoretical. According to an article published earlier this year in the *Washington Monthly*, the United States Office of Pipeline Safety counted nearly 6,400 pipeline accidents that occurred in the United States between 1986 and August of 2001, causing 376 deaths, 1,799 injuries and $1,140,697,582 in property damage. Charles Pekow, *Washington Monthly*, “Lines of Fire,” January 1, 2002. The increased potential for a serious accident from a new pipeline, whether within or next to Los Padres -- including the possible physical danger to recreational users and residents of the forest -- is a substantial human health risk of leasing operations that simply has not been analyzed in the FEIS.
Spills from oil pipelines also present the possibility of environmental damage to water bodies, wildlife, and other sensitive resources. Although a short statements in the FEIS refers to spills, the discussion is extremely general, and is principally concerned with fires affecting telephone poles, the possibility of the spillage of PCBs from the transformers on those poles, and well blowouts. FEIS at pp. 3-128, 4-136. This discussion contains few specifics, and omits mention of fire and explosion dangers from pipeline accidents. The FEIS does refer to using 40 C.F.R. Part 112 to establish oil spill prevention, control, and countermeasures plans, but defers the specifics of what those plans will require by way of mitigation measures to later approval processes. FEIS at p. 2-66. Because the environmental impacts analysis in the FEIS lacks detail, the document’s discussion of mitigation of spill impacts is also lacking in meaningful specifics. Instead, the FEIS discusses, in only a very general way, that the Oil Spill Contingency Plan for Los Padres will be followed, and that operators will be required to prepare spill prevention plans. FEIS at p. 2-66, 4-137.

The construction and presence of infrastructure to support the drilling operations, in the guise of wellheads, pads, tanks, access roads, and piping, will significantly alter the beauty of large portions of the Forest. Los Padres provides “large natural appearing wildland landscapes near major metropolitan areas,” with 93% of Los Padres landscape having “a natural appearance.” FEIS 3-116. Los Padres is close to major metropolitan areas of Southern and Central California, and provides recreational opportunities and refuge from the hectic nature of urban life. This Oil and Gas Leasing plan will allow further interference with the quiet enjoyment of this resource. Although the New Preferred Alternative will minimize the amount of structures that will actually be built on forest lands, making three HOGPAs available for oil

6. Further, although construction of roads and pipelines have potential for adverse impacts on the soils and riparian resources of the forest, the mitigation of these impacts is improperly deferred to the use of Best Management Practices to be developed in the future on a site-specific basis. FEIS at p. 4-33, 4-34, 4-35.

11.

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and gas exploration and development will bring drilling infrastructure right up to the borders of the forest. The impact of oil and gas drilling on the edges of the forest, is an impact to the forest and to the wildlife that lives within it, as well as to the ability to enjoy the quietude of its lands. Nonetheless, this major impact to the enjoyment of Los Padres has not been addressed in the FEIS, nor has mitigation for those impacts been discussed. This is particularly true, as portions of Los Padres have already suffered “major” and “drastic” disturbances from the current ongoing oil and gas drilling. FEIS at p. 3-126. Instead of discussing these impacts that will flow from leasing forest lands for oil and gas production, the FEIS defers the discussion of these impacts to areas at the boundaries of the forest, and any mitigation that might be available for these impacts, to other future planning processes regarding development on private lands. FEIS at p. 4-58.

Although damage from such operations to the scenic beauty of the Forest, and in particular in the Sespe HOGPA, is noted in the FEIS at p. 3-124, discussion of mitigation of impacts to address the impacts of prospective oil and gas drilling within a half-mile of Los Padres is limited to reference to land use restrictions in the HOGPA, such as the use of No Surface Occupancy (“NSO”) restrictions. This will not address the scenic and noise impacts from access roads, piping, well pads, and rigs that will result from drilling on land immediately adjacent to forest lands while using leases in Los Padres.

It is a fundamental tenet of NEPA that federal agencies must take a “hard look” at environmental consequences arising from proposed projects. Id. The FEIS’ cursory, generic reference to the possibility of spills from oil production, and the blight caused by the existence of oil drilling equipment at the boundaries of the Forest, does not meet this standard. The FEIS must permit those who do not participate in its preparation to understand and meaningfully consider the reasoning, premises, and data relied upon, so that a reasoned choice among different courses of action can be made. Friends of the River v. FERC, 720 F.2d 93, 120 (D.C. Cir. 1983).

Another impact that is not adequately discussed is the impacts to the California Condor from oil and gas drilling in its habitat. As the Forest Service is well-aware, it is only through the
superhuman efforts of the U.S. Fish and Wildlife’s captive breeding program that it may be possible to bring this species back from the brink of extinction. There are now 44 free ranging condors in the Forest. FEIS at p. 3-48. The proposed oil leasing puts the future success of this effort in jeopardy. Four hundred acres of the Sespe HOGPA, which is proposed to be made available for leasing in the ROD’s New Preferred Alternative, has been designated as critical habitat for the California Condor. FEIS at p. 3-48.

For mitigation of impacts to the California Condor, this FEIS relies almost exclusively on the use of time and NSO restrictions that will be based on future surveys and future consultation with the United States Fish and Wildlife Service. FEIS at p 4-59. This mitigation includes the imposition of “BLM standard lease terms,” which restrict land use or which provide notice. These include NSOs in inventoried roadless areas and limited service use (“LSU”) in other sensitive areas. FEIS at p. 2-13 through 2-16. The FEIS also provides for “Threatened and Endangered Species Information Notices.” (TES Information Notice) Although the TES Information Notice is offered as mitigation for the danger to Condors created by the oil and gas drilling operations, it requires compliance with terms that are completely unrealistic to expect from an oil drilling crew and merely underlines the vulnerability of the Condors to all aspects of oil and gas drilling and the presence of people and their machinery in the Condor habitat. FEIS at p. 2-18. For instance, the specific measures that might be required as a condition of approval by BLM include the picking-up of *all* small bits of trash at the end of each day, or whenever workers are not present onsite. Compliance with this requirement, while necessary to protect Condors, is unlikely. The best protection for this endangered species may be to not lease the lands in the Sespe HOGPA at all.

What is not analyzed in the FEIS is the fact that making this HOGPA available for oil and gas exploration will attract infrastructure to the edge of the forest. Because the technical limitation on slant drilling is 1/2 mile, any oil and gas drilling subject to the NSO requirements must be done by slant drilling from nearby private or other public properties. FEIS at p.2-15.
Accordingly, the wells, well pads, roads and power lines will have to be set up 2600 feet or less from the boundary of the forest. Condors do not limit themselves to such artificial boundaries, and the impacts from the existence of this oil and gas drilling equipment so near the Condor sanctuary must be analyzed in depth in the FEIS. Having failed to do so, the Forest Service has not satisfied its obligation under NEPA to discuss possible mitigation in sufficient detail to enable full disclosure of potential impacts and informed decision-making. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989.)

Besides providing for the imposition of NSOs and LSUs, the FEIS’ only other mitigation for impacts to the California Condor is future site-specific surveys and consultation with U.S. Fish and Wildlife biologists. FEIS at p.4-59. It is not sufficient to state, as this FEIS does, that the mitigation for biological impacts will be worked out under consultation required by the Endangered Species Act at the time site-specific leasing decisions are made. An FEIS necessarily involves some degree of forecasting, and if discussion of environmental consequences can be deferred based on a promise to perform a comparable analysis in connection with some later site-specific projects, no environmental consequences would ever need to be addressed in an EIS. *Kern v. United States Bureau of Land Management*, 284 F.3d 1062, 1071 (9th Cir.2002). For example, without a reasonably detailed evaluation of the likely success of various measures available to mitigate the impacts to Condors caused by this new development adjacent to the Sespe HOGPA, it is impossible to evaluate and make a decision about the potential harms and risks of this project to the California Condor. It may be that the project is simply inconsistent with the Condor’s survival. The viability of possible mitigation measures– and thus of the Condor itself – needs to be assessed now.

This attempt by the Forest Service to defer analysis and consideration of mitigation to later site-specific environmental review and to the Endangered Species Act consultation process does not meet the requirements of NEPA. The Ninth Circuit has made it clear that where impacts are reasonably foreseeable, it is not appropriate to defer analysis to a future date. *Neighbors of*
Cudahy Mountain v. U.S. Forest Service, 137 F.3d. 1372, 1380 (9th Cir. 1998). This is true even where, as here, the FEIS at issue is the first-tier environmental document of a multi-stage process. The standards set forth in State of California v. Block, 690 F.2d. 753 (9th Cir. 1982) are applicable here. There, plaintiffs challenged a decision to designate 36 million acres of national forest land as “non-wilderness” on the grounds that the EIS did not contain enough site-specific data to support the designation. Id. at 760. The Forest Service argued that, since the EIS described only the first step of a multi-step national project, a generalized discussion of environmental impact was sufficient. Id. at 761-2. The court disagreed, on the basis that the decision to commit the areas to non-wilderness status would make an irreversible and irretreivable commitment of resources that required environmental scrutiny at the time the decision is made to constrain future choices. Id. at 762-3.

In limited circumstances, where future choices will not be constrained, the courts allow some deferral of impact analysis. See Northern Alaska Environmental Center v. Lujan, 961 F.2d 886, 891 (9th Cir. 1992) (limited mitigation discussion was permissible, because the agency would make no decision that could negatively affect the environment without additional environmental review). In contrast to Lujan, this FEIS is intended to be used by the Forest Service to commit specific lands to be offered for lease, as well as what lease stipulations should be applied to which lands. FEIS at pp. 1-8 and 1-11. The BLM will be notified of the lands available for lease, and will then offer them for competitive bid. Thus, this proposal will alter the balance of land uses in Los Padres forest-wide, necessarily foreclosing some other uses of the areas offered for leasing. Under Block, these impacts and the measures to mitigate these impacts, must be analyzed at the time the decision is made, i.e., in this FEIS, in order to foster informed decision-making and informed public participation. Block, 690 F.2d at 761.

In Wyoming Outdoor Council v. U.S. Forest Service, 165 F.3d 43 (D.C. Cir. 1999), the Court denied an appeal from several environmental groups who had challenged an EIS for an oil and gas leasing plan for the Shoshone National Forest on grounds that it was not sufficiently site-
specific in its NEPA analysis. That case can be distinguished, however, from the instant situation. First, the plan at issue in the Wyoming Outdoor Council case did not identify specific areas available for leasing; rather, it identified broad categories of lands. See, Wyoming Outdoor Council v. Dombeck, 148 F.Supp. 2d 1,5 (D.D.C. 2001). Further, the appellate court was not approving the analysis in the EIS; rather, it simply found that it did not have jurisdiction to hear this challenge to the EIS under NEPA. Wyoming Outdoor Council v. U.S. Forest Service, 165 F.3d at 49. Because the Forest Service could still do additional NEPA compliance, the court found that there had not yet been an irreversible and irretrievable commitment of resources necessary to establish ripeness. Id.

Because the Los Padres FEIS will commit specific lands within Los Padres to oil and gas development, possibly foreclosing wilderness and wildlife habitat uses, and because the project could negatively impact Condor habitat, NEPA requires the Forest Service to conduct a much more thorough analysis of the potential harm to this endangered species from this project, and of measures to mitigate that harm. Particularly in light of the huge amount of emotional and financial resources that have been invested to attempt to save the Condor, more detail is required to enable full public disclosure. Failure to provide information about these major potential environmental consequences from oil leasing activity means that this FEIS fails to meet NEPA requirements to provide the public with full environmental disclosure. Silva v. Lynn, 482 F.2d 1282, 1285 (1st Cir. 1973).

An FEIS must “set forth sufficient information for the general public to make an informed evaluation . . . and for the decision maker to consider fully the environmental factors involved and to make a reasoned decision after balancing the risks of harm to the environment against the benefits to be derived from the proposed action.” Sierra Club v. United States Army Corps of Engineers, 701 F.2d 1011, 1029-1030 (2d Cir. 1983). NEPA requires that the FEIS contain a reasonably thorough discussion of the significant aspects of the probable consequences of an action. Oregon Natural Resources Council v. Lowe, 109 F.3d 521, 526 (9th Cir. 1997). An
FEIS is invalid if the information and analysis it contains is "too vague, too general and too conclusory." *Silva*, 482 F.2d at 1285. The FEIS for Oil and Gas Leasing in Los Padres is too vague, too general, and too conclusory, and therefore should be invalidated.

**CONCLUSION**

Since 1999, the Forest Service has been working to prepare an update to the Los Padres Forest Plan that not only seeks to fill some key gaps in the existing plan, but also seeks to achieve consistent management direction across several southern California forests in order to protect and sustain particularly vulnerable and unique ecological communities. The government has also undertaken superhuman efforts to attempt to save the critically endangered California Condor. The proposal to lease specific lands for oil and gas development now, without the benefit of the planning process required under the NFMA and without the full information required under NEPA, threatens to seriously jeopardize these ongoing efforts. Because the limited amount of oil and gas that is, theoretically, obtainable from the Los Padres does not and cannot justify action in contravention of applicable environmental laws, we request that the Forest Service withdraw the ROD and its supporting FEIS, and address the issues of oil and gas leasing in the Forest Management Plan for Los Padres, where it can properly balance the competing interests in forest lands.

Dated: September 13, 2005

Respectfully submitted,

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