

**Biological Assessment**  
**for Threatened, Endangered, and Proposed Species, and**  
**Designated and Proposed Critical Habitat**  
  
**for**  
  
**The National Forest System**  
**2008 Final Land Management Planning Rule**

**Background**

The Forest Service has prepared a final environmental impact statement (FEIS) to examine the potential environmental impacts associated with promulgating the 2008 planning rule. The 2008 rule establishes a new process for developing future land management plans for the National Forest System (NFS). The purpose of the 2008 rule is to replace and improve upon the 2000 planning rule by providing a planning process that is readily understood, is within the agency's capability to implement, is consistent with the capabilities of NFS lands, and recognizes the strategic programmatic nature of planning. The 2008 planning rule meets the requirements of the National Forest Management Act (NFMA) while making cost effective and efficient use of resources allocated to the Agency for land management planning. Background regarding the development of the rule is provided in the preamble to the rule (72 Fed. Reg. 48514 (August 23, 2007)).

The purpose of this analysis is to comply with the U.S. District Court for the Northern District of California order on 30 March 2007 (Civil No. C04-4512-PJH, Judge Hamilton presiding) regarding the Forest Service obligations under the Endangered Species Act (ESA). This analysis has been prepared to examine whether the Final 2008 planning rule for NFS Land Management Planning has effects on threatened, endangered, and proposed (TEP) species or on designated and proposed critical habitat.

The promulgation of the 2008 planning rule is not a major construction activity as defined in the implementing regulations of the ESA (50 CFR 402.02) and the Forest Service has reached a "No Effect" determination. However, this analysis was conducted in order comply with the direction of the court and help the Forest Service examine whether adopting the 2008 planning rule would have any effect on TEP species or their designated or proposed critical habitat.

A list of the threatened and endangered species that occur on NFS lands is attached in Attachment 1. A list of designated critical habitat on NFS lands is presented in Attachment 2. These lists were verified by U.S. Fish and Wildlife Service (FWS) on 19 December 2007 and by NOAA National Marine Fisheries Service (NOAA) on 29 November 2007.

This analysis does not take the place of site-specific project or programmatic (e.g., land management plan) planning and analysis that will be conducted for future decisions and activities on NFS lands. Consultation or conferencing, pursuant to Section 7 of the ESA, for threatened, endangered, and proposed species, and designated and proposed critical habitat will be conducted for future proposed actions authorized, funded, or carried out by the Forest Service, as required by regulation and policy (50 CFR 402.01, FSM 2671.45).

### **Description of the Action**

The 2008 planning rule establishes procedures for the development, revision or amendment of land management plans for NFS lands as required in the NFMA. For the purposes of developing, revising or amending future land management plans, this rule replaces the NFMA implementing regulations promulgated in 2000. Key elements of the 1982, 2000, and the 2008 planning rules are displayed in Attachment 3.

The 2008 planning rule requires that future land management plans display how they comply with provisions in the NFMA to “provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet the overall multiple-use objectives” (16 U.S.C. 1604 (g)(3)(B)).

The 2008 planning rule (36 CFR 219.10(b)) establishes procedural direction to consider and provide for ecosystem sustainability. It requires that land management plans provide a framework to contribute to sustaining native ecological systems by providing ecological conditions to support diversity of native plants and animals in the plan area. The 2008 rule further stipulates that (36 CFR 219.10(b)(2)) land management plans must include additional provisions for threatened and endangered species when the responsible official finds that ecosystem/habitat protections are inadequate to provide suitable ecological conditions for those species. The 2008 planning rule is strictly procedural, applies to a wide range of landscapes and environments, and requires that land management plan guidance be developed in three areas: Guidance for desired conditions and objectives related to biodiversity; guidance on how to achieve these desired conditions; and guidance on how to measure success in the achievement of established diversity desired conditions.

### **Interagency Cooperation**

The Forest Service has been in the process of revising the 1982 Planning Regulations for several years. This effort has included the development of planning rules in 2000 and 2005. Throughout this process, the Forest Service sought outside review and advice regarding its planning process in general and these planning regulations in particular. In the most recent effort, a proposed rule was released for public comment on 23 August 2007 (72 Fed. Reg. 48514). Over 79,000 comments were received. In addition, from February 18-20, 2003, the agency sponsored a Diversity Options workshop that involved scientists, representatives from State and Federal resource agencies, State and local officials, and conservation organizations. The workshop reviewed options to meet

NFMA requirements to provide for the diversity of plant and animal communities based upon the suitability and capability of the specific land area in order to meet overall multiple use objectives (16 U.S.C. 1604(g)(3)(B)). Both the Fish and Wildlife Service and NOAA participated in the workshop. Results of the workshop contributed to development of this rule.

The Forest Service has been engaged in communication and dialog with the ESA regulatory agencies, FWS and NOAA, each time we have attempted to revise the NFMA planning regulations. During development of the 2000 planning rule an analysis was completed to examine whether the planning rule had any effect on listed or proposed species or on designated or proposed critical habitat. That analysis concluded that the planning rule had ‘No Effect’ on listed species or critical habitat (Attachment 5). Pursuant to federal agency obligations under the ESA, when a federal agency conducts an analysis of a proposed action and concludes that the proposed action would have no effect on listed species or critical habitat, ESA Interagency Cooperation requirements have been met and no further action is required by the federal agency. Additional consultation would only be necessary if the action agency concludes that the proposed action ‘may affect’ a listed species or critical habitat. When the ‘may affect’ finding is made there are two possible outcomes for completing consultation requirements. The first is to arrive at a Not Likely to Adversely Affect finding and seek concurrence from the FWS or NOAA. The second outcome is to conclude that the proposed action is “Likely to Adversely Affect” listed species or critical habitat and request initiation of the formal consultation or conferencing with the regulatory agencies (50 CFR Part 402.13-.14).

For the 2000 rule despite arriving at a ‘No Effect’ finding, the Forest Service voluntarily sent the completed analysis to both the FWS and NOAA to determine if they agreed with the determination. In a letter dated May 11, 2001, Don Knowles, Director of the Office of Protected Resources stated that NOAA agreed with the Forest Service ‘No Effect’ finding (Attachment 5). In a letter dated April 20, 2001, (Attachment 5) Gary Frazier, Assistant Director for Endangered Species agreed that the planning rule had no discernable effects to listed species and the ‘No Effect’ conclusion was “well founded”.

During development of the 2005 planning rule, a similar analysis was conducted regarding listed species and critical habitat (Attachment 5). In that analysis, the Forest Service again concluded that the proposed rule had ‘No Effect’ on listed or proposed species or designated or proposed critical habitat. The rule was strictly procedural in nature, did not fund, permit or authorize any activity, and lacked sufficient detail to conduct a meaningful analysis of possible effects to listed species. Because this fulfilled the consultation requirement and given that the Forest Service already knew both the FWS and NOAA agreed with the Forest Service’s “No Effect” finding for the 2000 planning rule, the 2005 analysis was not sent to the regulatory agencies asking for their agreement on this No Effect finding.

Since initiating the development of the current proposed planning rule, the Forest Service has consulted with NOAA and FWS to discuss the programmatic nature of the planning

rule, to explain the Forest Service's tiered decision making framework (Regulation, Land Management Plan, and project) and to consider the potential of the 2008 planning rule to affect threatened, endangered and proposed species, and designated and proposed critical habitat. We concluded this consultation by reaching a "No Effect" determination. The Forest Service was aware that FWS and NOAA had agreed with the Forest Service's similar "no effect" determination for the 2000 planning rule. However, the Forest Service ultimately concluded that, because our "no effect" determination fulfilled the consultation requirement, it was not necessary to submit this Biological Assessment to the NOAA or FWS seeking agreement with our finding.

A chronology of the interagency contacts that constitute the consultation (50 CFR 402.13-14) is presented in Attachment 4.

### **Determination of Effects**

The 2008 planning rule establishes procedures for future land management planning for NFS lands. The rule, in itself, does not predetermine or compel management activities for specific project areas or land management decisions, nor does it authorize, fund, permit, or carry out any habitat or resource disturbing activities. The rule does not make any land use allocations, nor does it establish specific standards or guidelines for management of resources.

The 2008 planning rule itself is not the cause of any effects to any species. The ESA regulations require the action agency to consider the direct and indirect effects of the proposed agency action. The direct and indirect effects are to be considered with reference to those of other activities which may be interrelated or interdependent as part of the environmental baseline. 50 C.F.R. 402.02.

Changing the planning rule has no direct effects on any species. The new rule merely establishes procedures for preparing, revising, or amending forest land management plans. A rule change alone does not change any forest plan. It applies only when a separate decision is made to revise or amend a plan. Nor does the 2008 planning rule dictate any particular decisions with on-the-ground effects to species. While the new rule does not include the species viability provisions of the 1982 and 2000 rules, the new rule does not dictate that existing management regimes concerning species be changed. Furthermore, plan development, revision, or amendment under the 2008 rule will not compel any particular outcome concerning species. The rule will require a forest plan to provide a framework for sustaining ecological conditions that support species diversity and include provisions for specific threatened and endangered species where needed. The specific plan provisions for any species rest on the outcome of the wholly separate decision-making process for devising plans for each forest unit. The rule does not require any particular mix of multiple-use activities. Moreover, approval of a land management plan under the 2008 rule does not require environment-altering actions, *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 67-72 (2004); *Ohio Forestry Ass'n v. Sierra Club*, 523 U.S. 726, 733-37 (1998). Especially given the vision of forest plans in the 2008 planning rule as aspirational documents setting forth desired conditions,

objectives, and guidelines, direct effects would likely not even occur at the forest planning stage. Thus, while the 2008 rule provides the broad framework for eventual plan revision, the plan revision process is the step where individual issues concerning TEP species are first specifically identified and where desired conditions and objectives are formed. While a planning rule is a necessary first step, the plan revision process stands as a separate and supervening event in the steps from planning rule to species effects.

Changing the planning rule has no indirect effects on any species. ESA regulations define indirect effects as those “caused by the proposed action and are later in time, but still reasonably certain to occur.” 50 C.F.R. 402.02. For the new planning rule to have effects on TEP species, at least two additional steps must occur. First, a national forest must amend or revise its land management plan in a way which allows for actions with indirect effects to TEP species. Because the planning rule requires the responsible official to determine whether additional plan components are needed to provide appropriate ecological conditions for TEP or other species, indirect effects on TEP species could not be reasonably certain to occur while the planning process remains uncompleted. Second, the forest must also separately decide to authorize specific actions with indirect effects on TEP species after conducting planning under the new rule. While these planning and project steps are “later in time,” no indirect effects are reasonably certain to occur until those processes are concluded. As any indirect effects thus depend on the outcome of these other processes, not the new planning rule, the latter processes are also supervening events which show that sufficient causation is lacking. Furthermore, the 2008 rule specifically allows for the development of new standards or the inclusion of standards from existing documents into new, revised or amended land management plans.

Also, the species viability/diversity requirements in the 1982 and 2000 NFMA planning rules established a framework for the subsequent development of land management plans and the successive design and execution of particular management activities. However, separate independent decisions are required to implement those plans and activities. The changes instituted by the 2008 planning rule are similar in establishing procedures for the development, amendment, or revision of future land management plans but is not prescriptive in requiring specific actions or activities.

This rule does not directly affect, modify, mitigate, or reduce the requirement on the Forest Service to conference or consult on projects or activities that it funds, permits, or implements that may affect threatened, endangered, or proposed species or their designated or proposed critical habitat. When actions are proposed that can be meaningfully evaluated and may directly or indirectly affect TEP species or modify proposed or designated critical habitat, the agency will engage in Section 7 consultation with FWS or NOAA, consistent with ESA and implementing regulations.

## Conclusion

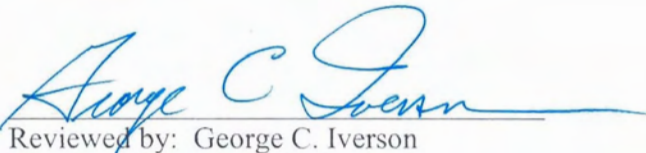
Based on my review of the 2008 planning rule, I have determined that the final rule, in itself, will have no direct or indirect effect on threatened, endangered, or proposed species or to designated or proposed critical habitat. This analysis and conclusion of "no effect" satisfies the Forest Service federal agency ESA obligations under Section 7 of the ESA and its implementing regulations.



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January 18<sup>th</sup> 2008

Date



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January 18<sup>th</sup> 2008

Date

# ATTACHMENT 1

## Threatened and Endangered Species on National Forest System Lands

Species Common Name	ESA Status	Scientific Name
<b>Invertebrates</b>		
Spruce-fir Moss Spider	E	<i>Microhexura montivaga</i>
Conservancy Fairy Shrimp	E	<i>Branchinecta conservatio</i>
Longhorn Fairy Shrimp	E	<i>Branchinecta longiantenna</i>
Vernal Pool Fairy Shrimp	T	<i>Branchinecta lynchi</i>
A Crayfish	E	<i>Cambarus aculabrum</i>
Hell Creek Cave Crayfish	E	<i>Cambarus zophonastes</i>
Shasta Crayfish	E	<i>Pacifastacus fortis</i>
Uncompahgre Fritillary Butterfly	E	<i>Boloria improba acrocneuma</i>
Valley Elderberry Longhorn Beetle	T	<i>Desmocerus californicus dimorphus</i>
Smith's Blue Butterfly	E	<i>Euphilotes enoptes smithi</i>
Quino Checkerspot Butterfly	E	<i>Euphydryas editha quino</i>
Kern Primrose Sphinx Moth	T	<i>Euproserpinus euterpe</i>
Pawnee Montane Skipper	T	<i>Hesperia leonardus montana</i>
Karner Blue Butterfly	E	<i>Lycaeides melissa samuelis</i>
Mitchell's Satyr	E	<i>Neonympha mitchelli mitchelli</i>
American Burying Beetle	E	<i>Nicrophorus americanus</i>
Laguna Mountains Skipper	E	<i>Pyrgus ruralis lagunae</i>
Hine's Emerald Dragonfly	E	<i>Somatochlora hineana</i>
Oregon Silverspot Butterfly	T	<i>Speyeria zerene hippolyta</i>
Cumberland Elktoe	E	<i>Alasmidonta atropurpurea</i>
Dwarf Wedgemussel	E	<i>Alasmidonta heterodon</i>
Appalachian Elktoe	E	<i>Alasmidonta raveneliana</i>
Fat Three-Ridge Mussel	E	<i>Amblema neislerii</i>
Ouachita Rock Pocketbook	E	<i>Arkansia wheeleri</i>
Fanshell	E	<i>Cyprogenia stegaria</i>
Dromedary Pearlymussel	E	<i>Dromus dromas</i>
Purple Bankclimber Mussel	T	<i>Elliptoideus sloatianus</i>
Cumberlandian Combshell	E	<i>Epioblasma brevidens</i>
Oyster Mussel	E	<i>Epioblasma capsaeformis</i>
Curtis Pearlymussel	E	<i>Epioblasma florentina curtisi</i>
Yellow Blossom (Pearlymussel)	E	<i>Epioblasma florentina florentina</i>
Tan Riffleshell	E	<i>Epioblasma florentina walkeri</i>
Upland Combshell	E	<i>Epioblasma metastrata</i>
Purple Cat's Paw Pearlymussel	E	<i>Epioblasma obliquata obliquata</i>
Southern Acornshell	E	<i>Epioblasma othcaloogensis</i>
Green Blossom (Pearlymussel)	E	<i>Epioblasma torulosa gubernaculum</i>
Northern Riffleshell	E	<i>Epioblasma torulosa rangiana</i>
Tubercled-blossom Pearlymussel	E	<i>Epioblasma torulosa torulosa</i>
Turgid Blossom	E	<i>Epioblasma turgidula</i>
Shiny Pigtoe	E	<i>Fusconaia cor</i>
Finerayed Pigtoe	E	<i>Fusconaia cuneolus</i>
Cracking Pearlymussel	E	<i>Hemistena lata</i>
Pink Mucket	E	<i>Lampsilis abrupta</i>
Finelined Pocketbook	T	<i>Lampsilis altilis</i>
Orangenacre Mucket	T	<i>Lampsilis perovalis</i>
Arkansas Fatmucket	T	<i>Lampsilis powellii</i>

Shinyrayed pocketbook	E	Lampsilis subangulata
Carolina Heelsplitter	E	Lasmigona decorata
Birdwing Pearlymussel	E	Lemiox rimosus
Scaleshell Mussel	E	Leptodea leptodon
Louisiana Pearlshell	T	Margaritifera hembeli
Alabama Moccasinshell	T	Medionidus acutissimus
Coosa Moccasinshell	E	Medionidus parvulus
Ochlockonee Moccasinshell	E	Medionidus simpsonianus
Ring Pink (Mussel)	E	Obovaria retusa
Littlewing Pearlymussel	E	Pegias fabula
Heavy Pigtoe	E	Pleurobema taitanum
Clubshell	E	Pleurobema clava
James Spinymussel	E	Pleurobema collina
Southern Clubshell	E	Pleurobema decisum
Dark Pigtoe	E	Pleurobema furvum
Southern Pigtoe	E	Pleurobema georgianum
Ovate clubshell	E	Pleurobema perovatum
Rough Pigtoe	E	Pleurobema plenum
Oval Pigtoe	E	Pleurobema pyriforme
Fat Pocketbook	E	Potamilus capax
Heavy Pigtoe	E	Potamilus inflatus
Triangular Kidneyshell	E	Ptychobranthus greenii
Rough Rabbitsfoot	E	Quadrula cylindrica strigillata
Cumberland Monkeyface (pearlymussel)	E	Quadrula intermedia
Appalachian Monkeyface	E	Quadrula sparsa
Purple Bean Mussel	E	Villosa perpurpurea
Cumberland Bean Pearlymussel	E	Villosa trabalis
Tumbling Creek Cave Snail	E	Antrobia culveri
Lacy Elimia	T	Elimia crenatella
Magazine Mountain Shagreen	T	Inflectarius magazinensis
Koster's tryonia snail	PE	Jurnia kosteri
Round rocksnail	T	Leptoxis ampla
Painted rocksnail	T	Leptoxis taeniata
Flat pebblesnail	E	Lepyrium showalteri
Cylindrical lioplax	E	Lioplax cyclostomaformis
Noonday Globe	T	Patera clarki nantahala
Alamosa Springsnail	E	Tryonia alamosae
Tulotoma Snail	E	Tulotoma magnifica
<b>Plants</b>		
Hart's Tongue Fern	T	Asplenium scolopendrium var. americanum
Louisiana Quillwort	E	Isoetes louisianensis
Alabama Streak-Sorus Fern	T	Thelypteris pilosa var. alabamensis
San Diego Thorn-mint	T	Acanthomintha ilicifolia
Northern Wild Monkshood	T	Aconitum noveboracense
Sensitive Joint-vetch	T	Aeschynomene virginica
Munz's Onion	E	Allium munzii
Little Amphianthus	T	Amphianthus pusillus
Price's Potato-bean	T	Apios priceana
McDonald's Rock-cress	E	Arabis macdonaldiana
Shale Barren Rock-cress	E	Arabis serotina
Marsh Sandwort	E	Arenaria paludicola
Bear Valley Sandwort	T	Arenaria ursina
Sacramento Prickly-poppy	E	Argemone pleiacantha ssp. pinnatisecta



Mead's Milkweed	T	<i>Asclepias meadii</i>
Cushenbury Milk-vetch	E	<i>Astragalus albens</i>
Applegate's Milk-vetch	E	<i>Astragalus applegatei</i>
Braunton's Milk-vetch	E	<i>Astragalus brauntonii</i>
Desert Milkvetch	T	<i>Astragalus desereticus</i>
Coachella Milk-vetch	E	<i>Astragalus lentiginosus</i> var. <i>coachellae</i>
Heliotrope Milk-vetch	T	<i>Astragalus limnocharis</i> var. <i>montii</i>
Osterhout's Mik-vetch	E	<i>Astragalus osterhoutii</i>
Triplerib Milk-vetch	E	<i>Astragalus tricarinatus</i>
Encinitas Baccharis	T	<i>Baccharis vanessae</i>
Virginia Round-leaf Birch	T	<i>Betula uber</i>
Florida Bonamia	T	<i>Bonamia grandiflora</i>
Thread-leaved Brodiaea	T	<i>Brodiaea filifolia</i>
Capa Rosa	E	<i>Callicarpa ampla</i>
Ashgray Paintbrush	T	<i>Castilleja cinerea</i>
Vail Lake Ceanothus	T	<i>Ceanothus ophiochilus</i>
Purple Amole	T	<i>Chlorogalum purpureum</i> var. <i>reductum</i>
La Graciaosa Thistle	E	<i>Cirsium loncholepis</i>
Pitcher's Thistle	T	<i>Cirsium pitcheri</i>
Sacramento Mountain Thistle	T	<i>Cirsium vinaceum</i>
Mariposa Pussypaws	T	<i>Cistanthe pulchella</i>
Springville Fairyfan	T	<i>Clarkia springvillensis</i>
Alabama Leather Flower	E	<i>Clematis socialis</i>
Pigeon Wings	T	<i>Clitoria fragrans</i>
Apalachicola Rosemary	E	<i>Conradina glabra</i>
Cumberland Rosemary	T	<i>Conradina verticillata</i>
Pima Pineapple Cactus	E	<i>Coryphantha scheeri</i> var. <i>robustispina</i>
Leafy Prairie Clover	E	<i>Dalea foliosa</i>
Slender-horned Spineflower	E	<i>Dodecahema leptoceras</i>
Santa Monica Mountains Dudleya	T	<i>Dudleya cymosa</i> ssp. <i>ovatifolia</i>
Smooth Purple Coneflower	E	<i>Echinacea laevigata</i>
Arizona Hedgehog Cactus	E	<i>Echinocereus coccineus</i> var. <i>arizonicus</i>
Kuenzler Hedgehog Cactus	E	<i>Echinocereus fendleri</i> var. <i>kuenzleri</i>
Kern Mallow	E	<i>Eremalche parryi</i> ssp. <i>kernensis</i>
Giant Woolstar	E	<i>Eriastrum densifolium</i> ssp. <i>sanctorum</i>
Maguire Daisy	T	<i>Erigeron maguirei</i>
Parish's Fleabane	T	<i>Erigeron parishii</i>
Zuni Fleabane	T	<i>Erigeron rhizomatus</i>
Southern Mountain Buckwheat	T	<i>Eriogonum kennedyi</i> var. <i>austromontanum</i>
Scrub Buckwheat	T	<i>Eriogonum longifolium</i> var. <i>gnaphalifolium</i>
Cushenbury Buckwheat	E	<i>Eriogonum ovalifolium</i> var. <i>vineum</i>
Uvillo	E	<i>Eugenia haematocarpa</i>
Penland Alpine Fen Mustard	T	<i>Eutrema penlandii</i>
Mexican Flannelbush	E	<i>Fremontodendron mexicanum</i>
Gentner's fritillary	E	<i>Fritillaria gentneri</i>
Colorado Butterfly Plant	T	<i>Gaura neomexicana</i> ssp. <i>coloradensis</i>
Geocarpon	T	<i>Geocarpon minimum</i>
Spreading Avens	E	<i>Geum radiatum</i>
Showy Stickweed	E	<i>Hackelia venusta</i>
Harper's Beauty	E	<i>Harperocallis flava</i>
Todsen's Pennyroyal	E	<i>Hedeoma todsenii</i>
Virginia Sneezeweed	T	<i>Helenium virginicum</i>

Eggert's Sunflower	T	<i>Helianthus eggertii</i>
Schweinitz's Sunflower	E	<i>Helianthus schweinitzii</i>
Swamp Pink	T	<i>Helonias bullata</i>
Dwarf-flowered Heartleaf	T	<i>Hexastylis naniflora</i>
Roan Mountain Bluet	E	<i>Houstonia purpurea</i> var. <i>montana</i>
Water Howellia	T	<i>Howellia aquatilis</i>
Mountain Golden Heather	T	<i>Hudsonia montana</i>
Cuero de Sapo	E	<i>Ilex sintenisii</i>
Peter's Mountain-mallow	E	<i>Iliamna corei</i>
Holy Ghost Ipomopsis	E	<i>Ipomopsis sancti-spiritus</i>
Dwarf Lake Iris	T	<i>Iris lacustris</i>
Small Whorled Pogonia	T	<i>Isotria medeoloides</i>
San Joaquin Woolly-Threads	E	<i>Lembertia congdonii</i>
Babyfoot Orchid	E	<i>Lepanthes eltoroensis</i>
Missouri Bladder-pod	E	<i>Lesquerella filiformis</i>
San Bernardino Mountains Bladderpod	E	<i>Lesquerella kingii</i> ssp. <i>bernardina</i>
Lyrate Bladderpod	T	<i>Lesquerella lyrata</i>
White Bladderpod	E	<i>Lesquerella pallida</i>
Heller's Blazing Star	T	<i>Liatris helleri</i>
Huaachuca Water Umbel	E	<i>Lilaeopsis schaffneriana</i> var. <i>recurva</i>
Western Lily	E	<i>Lilium occidentale</i>
Butte County Meadowfoam	E	<i>Limnanthes floccosa</i> ssp. <i>californica</i>
Pondberry	E	<i>Lindera melissifolia</i>
Cook's Lomatium	E	<i>Lomatium cookii</i>
Kincaid's Lupine	T	<i>Lupinus oreganus</i> var. <i>kincaidii</i>
Rough-leaf Loosestrife	E	<i>Lysimachia asperulifolia</i>
White Bird-in-a-nest	T	<i>Macbridea alba</i>
Nevin's Barberry	E	<i>Mahonia nevinii</i>
Mohr's Barbara's Buttons	T	<i>Marshallia mohrii</i>
Cumberland Sandwort	E	<i>Minuartia cumberlandensis</i>
Macfarlane's Four-O'Clock	T	<i>Mirabilis macfarlanei</i>
Britton's Beargrass	E	<i>Nolina brittonia</i>
Houghton's Goldenrod	T	<i>Oligoneuron houghtonii</i>
Bakersfield Cactus	E	<i>Opuntia basilaris</i> var. <i>treleasei</i>
Slender Orcutt Grass	T	<i>Orcuttia tenuis</i>
Canby's Dropwort	E	<i>Oxypolis canbyi</i>
Cushenbury Oxytheca	E	<i>Oxytheca parishii</i> var. <i>goodmaniana</i>
Fassett's Locoweed	T	<i>Oxytropis campestris</i> var. <i>chartacea</i>
San Rafael Cactus	E	<i>Pediocactus despainii</i>
Winkler Cactus	T	<i>Pediocactus winkleri</i>
Blowout Penstemon	E	<i>Penstemon haydenii</i>
Clay Phacelia	E	<i>Phacelia argillacea</i>
Yreka phlox	E	<i>Phlox hirsuta</i>
Texas Trailing Phlox	E	<i>Phlox nivalis</i> ssp. <i>texensis</i>
Godfrey's Butterwort	T	<i>Pinguicula ionantha</i>
Ruth's Golden-aster	E	<i>Pityopsis ruthii</i>
Rough Popcorn Flower	E	<i>Plagiobothrys hirtus</i>
Eastern Prairie White-fringed Orchid	T	<i>Platanthera leucophaea</i>
Western Prairie Fringed Orchid	T	<i>Platanthera praeclara</i>
Chupacallos	E	<i>Pleodendron macranthum</i>
San Bernardino Bluegrass	E	<i>Poa atropurpurea</i>
Lewton's Polygala	E	<i>Polygala lewtonii</i>
Maguire Primrose	T	<i>Primula maguirei</i>

San Joaquin Adobe Sunburst	T	<i>Pseudobahia peirsonii</i>
Harperella	E	<i>Ptilimnium nodosum</i>
Arizona Cliffrose	E	<i>Purshia subintegra</i>
Miccosukee Gooseberry	T	<i>Ribes echinellum</i>
Gambel's Watercress	E	<i>Rorippa gambelii</i>
Bunched Arrowhead	E	<i>Sagittaria fasciculata</i>
Kral's Water Plantain	T	<i>Sagittaria secundifolia</i>
Green Pitcher Plant	E	<i>Sarracenia oreophila</i>
Alabama Canebrake Pitcher Plant	E	<i>Sarracenia rubra</i> ssp. <i>alabamensis</i>
Mountain Sweet Pitcher Plant	E	<i>Sarracenia rubra</i> ssp. <i>jonesii</i>
American Chaffseed	E	<i>Schwalbea americana</i>
Northeastern Bulrush	E	<i>Scirpus ancistrochaetus</i>
Unita Basin Hookless Cactus	T	<i>Sclerocactus glaucus</i>
Florida Skullcap	T	<i>Scutellaria floridana</i>
Large Flowered Skullcap	T	<i>Scutellaria montana</i>
Leedy's Roseroot	T	<i>Sedum integrifolium leedyi</i>
San Francisco Peaks groundsel	T	<i>Senecio franciscana</i>
Layne's Butterweed	T	<i>Senecio layneae</i>
Keck's Checker Mallow	E	<i>Sidalcea keckii</i>
Nelson's Checker Mallow	T	<i>Sidalcea nelsoniana</i>
Wenatchee Mountains Checker Mallow	E	<i>Sidalcea oregana</i> var. <i>calva</i>
Bird-footed Checkerbloom	E	<i>Sidalcea pedata</i>
Spalding's Catchfly	T	<i>Silene spaldingii</i>
White Irisette	E	<i>Sisyrinchium dichotomum</i>
White-Haired Goldenrod	T	<i>Solidago albopilosa</i>
Blue Ridge Goldenrod	T	<i>Solidago spithamaea</i>
Virginia Spiraea	T	<i>Spiraea virginiana</i>
Canelo Hills Ladies Tresses	E	<i>Spiranthes delitescens</i>
Ute Ladies'-tresses	T	<i>Spiranthes diluvialis</i>
Navasota Ladies'-tresses	E	<i>Spiranthes parksii</i>
California Jewelflower	E	<i>Stanfordia californica</i>
Palo de Jazmin	E	<i>Styrax portoricensis</i>
California Dandelion	E	<i>Taraxacum californicum</i>
Palo Colorado	E	<i>Ternstroemia luquillensis</i>
Unknown Common Name	E	<i>Ternstroemia subsessilis</i>
Lakeside Daisy	T	<i>Tetrameuris herbacea</i>
Howell's Spectacular Theypody	T	<i>Thelypodium howellii</i> ssp. <i>spectabilis</i>
Slender-petaled mustard	E	<i>Thelypodium stenopetalum</i>
Kneeland Prairie Pennycress	E	<i>Thlaspi californicum</i>
Last Chance Townsendia	T	<i>Townsendia aprica</i>
Running Buffalo Clover	E	<i>Trifolium stoloniferum</i>
Persistent Trillium	E	<i>Trillium persistens</i>
Relict Trillium	E	<i>Trillium reliquum</i>
Greene's Tuctoria	E	<i>Tuctoria greenei</i>
Tennessee Yellow-eyed Grass	E	<i>Xyris tennesseensis</i>
Rock Gnome Lichen	E	<i>Gymnoderma lineare</i>
<b>Reptiles &amp; Amphibians</b>		
New Mexico Ridgenose Rattlesnake	T	<i>Crotalus willardi obscurus</i>
Eastern Indigo Snake	T	<i>Drymarchon corais couperi</i>
Puerto Rican Boa	E	<i>Epicrates inornatus</i>
Blunt-nosed Leopard Lizard	E	<i>Gambelia sila</i>
Desert Tortoise (Sonoran pop.)	T	<i>Gopherus agassizii</i> pop 2
Gopher Tortoise	T	<i>Gopherus polyphemus</i>

Sand Skink	T	<i>Neoseps reynoldsi</i>
Flattened Musk Turtle	T	<i>Sternotherus depressus</i>
Flatwoods Salamander	T	<i>Ambystoma cingulatum</i>
Sonoran Tiger Salamander	E	<i>Ambystoma tigrinum stebbinsi</i>
Wyoming Toad	E	<i>Bufo baxteri</i>
Arroyo Southwestern Toad	E	<i>Bufo californicus</i>
Houston Toad	E	<i>Bufo houstonensis</i>
Red hills salamander	T	<i>Phaeognathus hubrichti</i>
Cheat Mountain Salamander	T	<i>Plethodon nettingi</i>
Shenandoah Salamander	E	<i>Plethodon shenandoah</i>
California Red-legged Frog	T	<i>Rana aurora draytonii</i>
Mississippi Gopher Frog	E	<i>Rana capito servosa</i>
Chiricahua leopard frog	T	<i>Rana chiricahuensis</i>
Mt. Yellow-legged frog (So. CA DPS)	E	<i>Rana muscosa</i> pop. 1
<b>Birds</b>		
Puerto Rican Sharp-Shinned Hawk	E	<i>Accipiter striatus</i>
Puerto Rican Parrot	E	<i>Amazona vittata</i>
Florida Scrub Jay	T	<i>Aphelocoma coerulescens</i>
Marbled murrelet	T	<i>Brachyramphus marmoratus</i>
Puerto Rican Broad-winged Hawk	E	<i>Buteo platypterus brunescens</i>
Western Snowy Plover	T	<i>Charadrius alexandrinus nivosus</i>
Piping Plover	T/E	<i>Charadrius melodus</i>
White-necked Crow	E	<i>Corvus leucognaphalus</i>
Kirtland's Warbler	E	<i>Dendroica kirtlandii</i>
Southwestern Willow Flycatcher	E	<i>Empidonax traillii extimus</i>
Northern Aplomado Falcon	E	<i>Falco femoralis septentrionalis</i>
Whooping Crane	E	<i>Grus americana</i>
Mississippi Sandhill Crane	E	<i>Grus canadensis pulla</i>
California Condor	E	<i>Gymnogyps californianus</i>
Bald Eagle	T	<i>Haliaeetus leucocephalus</i>
Wood Stork	E	<i>Mycteria americana</i>
Brown Pelican	E	<i>Pelecanus occidentalis</i>
Brown Pelican	E	<i>Pelecanus occidentalis californicus</i>
Red-cockaded Woodpecker	E	<i>Picoides borealis</i>
Coastal California Gnatcatcher	T	<i>Polioptila californica californica</i>
Yuma Clapper Rail	E	<i>Rallus longirostris yumanensis</i>
Least Tern	E	<i>Sterna antillarum</i>
California Least Tern	E	<i>Sterna antillarum browni</i>
Northern Spotted Owl	T	<i>Strix occidentalis caurina</i>
Mexican Spotted Owl	T	<i>Strix occidentalis lucida</i>
Bachman's Warbler	E	<i>Vermivora bachmanii</i>
Black-capped Vireo	E	<i>Vireo atricapilla</i>
Least Bell's Vireo	E	<i>Vireo bellii pusillus</i>
Shortnose Sturgeon	E	<i>Acipenser brevirostrum</i>
<b>Fish</b>		
Green Sturgeon (Southern DPS)	T	<i>Acipenser mediosteris</i>
Gulf Sturgeon	T	<i>Acipenser oxyrinchus desotoi</i>
White Sturgeon (Kootenai R. Pop.)	E	<i>Acipenser transmontanus</i>
Modoc sucker	E	<i>Catostomus microps</i>
Santa Ana Sucker	T	<i>Catostomus santaanae</i>
Warner Sucker	T	<i>Catostomus warnerensis</i>
Shortnose Sucker	E	<i>Chasmistes brevirostris</i>
June Sucker	E	<i>Chasmistes liorus</i>

Pygmy Sculpin	T	<i>Cottus patulus</i>
Railroad Valley Springfish	T	<i>Crenichthys nevadae</i>
Blue Shiner	T	<i>Cyprinella caerulea</i>
Yaqui Shiner	T	<i>Cyprinella formosa mearnsi</i>
Spotfin Chub	T	<i>Cyprinella monacha</i>
Desert Pupfish	E	<i>Cyprinodon macularius</i>
Lost River Sucker	E	<i>Deltistes luxatus</i>
Slender Chub	T	<i>Erimystax cahni</i>
Etowah Darter	E	<i>Etheostoma etowahae</i>
Duskytail Darter	E	<i>Etheostoma percnum</i>
Tidewater Goby	E	<i>Eucyclogobius newberryi</i>
Unarmored Threespine Stickleback	E	<i>Gasterosteus aculeatus williamsoni</i>
Owens Tui Chub	E	<i>Gila bicolor snyderi</i>
Humpback chub	E	<i>Gila cypha</i>
Sonora Chub	T	<i>Gila ditaenia</i>
Bonytail Chub	E	<i>Gila elegans</i>
Gila Chub	E	<i>Gila intermedia</i>
Chihuahua Chub	T	<i>Gila nigrescens</i>
Yaqui Chub	E	<i>Gila purpurea</i>
Rio Grande Silveryminnow	E	<i>Hybognathus amarus</i>
Delta Smelt	T	<i>Hypomesus transpacificus</i>
Yaqui Catfish	T	<i>Ictalurus pricei</i>
Little Colorado Spinedace	T	<i>Lepidomeda vittata</i>
Spikedace	T	<i>Meda fulgida</i>
Palezone Shiner	E	<i>Notropis albizonatus</i>
Cahaba Shiner	E	<i>Notropis cahabae</i>
Arkansas River Shiner	T	<i>Notropis girardi</i>
Cape Fear Shiner	E	<i>Notropis mekistocholas</i>
Topeka Shiner	E	<i>Notropis topeka</i>
Smoky Madtom	E	<i>Noturus baileyi</i>
Yellowfin Madtom	T	<i>Noturus flavipinnis</i>
Lahontan Cutthroat Trout	T	<i>Oncorhynchus clarki henshawi</i>
Paiute Cutthroat Trout	T	<i>Oncorhynchus clarki seleniris</i>
Greenback Cutthroat Trout	T	<i>Oncorhynchus clarki stomias</i>
Apache (Arizona) Trout	T	<i>Oncorhynchus gilae apache</i>
Gila Trout	E	<i>Oncorhynchus gilae gilae</i>
Chum Salmon (Hood Canal, Summer Run)	T	<i>Oncorhynchus keta</i> pop 2
Chum Salmon (Columbia River)	T	<i>Oncorhynchus keta</i> pop 3
Coho Salmon (Lower Columbia River)	T	<i>Oncorhynchus kisutch</i> pop 1
Coho Salmon (Southern Oregon/northern California Coast)	T	<i>Oncorhynchus kisutch</i> pop 2
Steelhead (Southern California)	E	<i>Oncorhynchus mykiss</i> pop 10
Steelhead (California Central Valley)	T	<i>Oncorhynchus mykiss</i> pop 11
Steelhead (Upper Columbia River)	E	<i>Oncorhynchus mykiss</i> pop 12
Steelhead (Snake River Basin)	T	<i>Oncorhynchus mykiss</i> pop 13
Steelhead (Lower Columbia River)	T	<i>Oncorhynchus mykiss</i> pop 14
Steelhead (Northern California)	T	<i>Oncorhynchus mykiss</i> pop 16
Steelhead (Middle Columbia River)	T	<i>Oncorhynchus mykiss</i> pop 17
Steelhead (Upper Willamette River)	T	<i>Oncorhynchus mykiss</i> pop 20
Steelhead (Puget Sound)	T	<i>Oncorhynchus mykiss</i> pop 37
Steelhead (Southcentral California Coast)	T	<i>Oncorhynchus mykiss</i> pop 9
Little Kern Golden Trout	T	<i>Oncorhynchus mykiss whitei</i>
Sockeye Salmon (Ozette Lake)	E	<i>Oncorhynchus nerka</i>
Sockeye Salmon (Snake River)	E	<i>Oncorhynchus nerka</i> pop 1

Chinook Salmon (L. Columbia R.)	T	Oncorhynchus tshawytscha pop 1
Chinook Salmon (California Central Valley, Spring Run)	T	Oncorhynchus tshawytscha pop 11
Chinook Salmon (Upper Columbia River., Spring Run)	E	Oncorhynchus tshawytscha pop 12
Chinook Salmon (Puget Sound)	T	Oncorhynchus tshawytscha pop 15
Chinook Salmon (Upper Willamette River)	T	Oncorhynchus tshawytscha pop 16
Chinook Salmon (California Coast)	T	Oncorhynchus tshawytscha pop 17
Chinook Salmon (Snake River, Fall Run)	T	Oncorhynchus tshawytscha pop 2
Chinook Salmon (Sacramento River, Winter Run)	E	Oncorhynchus tshawytscha pop 7
Chinook Salmon (Snake River, Spring/Summer Run)	T	Oncorhynchus tshawytscha pop 8
Oregon Chub	E	Oregonichthys crameri
Amber Darter	E	Percina antesella
Goldline Darter	T	Percina aurolineata
Conasauga Logperch	E	Percina jenkinsi
Leopard Darter	T	Percina pantherina
Roanoke Logperch	E	Percina rex
Snail Darter	T	Percina tanasi
Blackside Dace	T	Phoxinus cumberlandensis
Gila Topminnow	E	Poeciliopsis occidentalis
Sacramento Splittail	T	Pogonichthys macrolepidotus
Colorado (=squawfish) Pikeminnow	E	Ptychocheilus lucius
Loach Minnow	T	Rhinichthys cobitis
Kendall Warm Springs Dace	E	Rhinichthys osculus thermalis
Bull Trout	T	Salvelinus confluentus
Pallid Sturgeon	E	Scaphirhynchus albus
Alabama Sturgeon	E	Scaphirhynchus suttkusi
Razorback Sucker	E	Xyrauchen texanus
<b>Mammals</b>		
Cook Inlet Beluga Whale	P	Delphinapterus leucas
Southern Resident Killer Whale	E	Orcinus orca
Sonoran Pronghorn	E	Antilocapra americana sonoriensis
Gray Wolf, Western pop.	T	Canis lupus
Gray Wolf, Southwestern pop. Mex.	E	Canis lupus baileyi
Gray Wolf, Eastern pop.	T	Canis lupus lycaon
Ozark Big-eared Bat	E	Corynorhinus townsendii ingens
Virginia Big-eared Bat	E	Corynorhinus townsendii virginianus
Utah Prairie Dog	T	Cynomys parvidens
Giant Kangaroo Rat	E	Dipodomys ingens
San Bernardino Kangaroo Rat	E	Dipodomys merriami parvus
Fresno Kangaroo Rat	E	Dipodomys nitratoides exilis
Tipton Kangaroo Rat	E	Dipodomys nitratoides nitratoides
Stephen's Kangaroo Rat	E	Dipodomys stephensi
Southern Sea Otter	T	Enhydra lutris nereis
Steller's Sea Lion (eastern)	T	Eumetopias jubatus
Steller's Sea Lion (western)	E	Eumetopias jubatus
Carolina Northern Flying Squirrel	E	Glaucomys sabrinus coloratus
Virginia Northern Flying Squirrel	E	Glaucomys sabrinus fuscus
Lesser Long-nosed Bat	E	Leptonycteris curasoae yerbabuenae
Mexican Long-nosed Bat	E	Leptonycteris nivalis
Canada Lynx	T	Lynx canadensis
Black-footed Ferret	E	Mustela nigripes

Gray Bat	E	<i>Myotis grisescens</i>
Indiana Bat	E	<i>Myotis sodalis</i>
Bighorn Sheep (Peninsular)	E	<i>Ovis canadensis</i> pop 2
Bighorn Sheep (Sierra Nevada)	E	<i>Ovis canadensis</i> pop 3
Jaguar	E	<i>Panthera onca</i>
Florida Panther	E	<i>Puma concolor coryi</i>
Eastern Cougar	E	<i>Puma concolor couguar</i>
Woodland Caribou	E	<i>Rangifer tarandus caribou</i>
Northern Idaho Ground Squirrel	T	<i>Spermophilus brunneus brunneus</i>
Mount Graham Red Squirrel	E	<i>Tamiasciurus hudsonicus grahamensis</i>
Florida Manatee	E	<i>Trichechus manatus</i>
Louisiana Black Bear	T	<i>Ursus americanus luteolus</i>
Grizzly Bear (Lower 48)	T	<i>Ursus arctos horribilis</i>
San Joaquin Kit Fox	E	<i>Vulpes macrotis mutica</i>
Preble's Meadow Jumping Mouse	T	<i>Zapus hudsonius preblei</i>

The above list was verified by NMFS and FWS on 29 November and 19 December 2008, respectively.

## ATTACHMENT 2

### Critical Habitat on National Forest System Lands

Life Form	Species	FS Unit with Designated Critical Habitat
Amphibian	Arroyo Southwestern Toad	Angeles (CA), Los Padres (CA), San Bernadino (CA)
Amphibian	Arroyo Southwestern Toad	Cleveland (CA)
Amphibian	California Red-legged Frog	Angeles (CA)
Amphibian	California Red-legged Frog	Los Padres (CA)
Amphibian	California Red-legged Frog	Plumas and Lassen (CA)
Amphibian	California Red-legged Frog	Stanislaus (CA)
Bird	California Condor	Angeles (CA), Los Padres (CA), Sequoia (CA)
Bird	Coastal California Gnatcatcher	San Bernardino (CA)
Bird	Marbled Murrelet	Gifford-Pinchot (WA), Mount Baker Snoqualmie (WA), Olympic (WA), Rogue River-Siskiyou (OR), Siuslaw (OR)
Bird	Mexican Spotted Owl	Fish Lake (UT)
Bird	Mexican Spotted Owl	Kaibab (AZ), Cibola (NM), Carson (NM), Santa Fe (NM), Apache-Sitgreaves (AZ), Coconino (AZ), Gila (NM), Tonto (AZ), Prescott (AZ), Coronado (AZ), and Lincoln(NM)
Bird	Mexican Spotted Owl	Pike - San Isabel (CO)
Bird	Northern Spotted Owl	Columbia River Gorge, Deschutes Fremont-Winema, Gifford-Pinchot, Mount Baker Snoqualmie, Mount Hood, Okanogan-Wenatchee (WA); Olympic, Rogue--Siskiyou, Siuslaw, Umpqua, Willamette (OR)
Bird	Piping Plover	Hiawatha (MI)
Bird	Piping Plover	Huron-Manistee (MI)
Bird	Western Snowy Plover	Siuslaw (OR)
Fish	Amber darter	Cherokee (TN)
Fish	California Coastal Chinook Salmon	Mendocino (CA), Six Rivers (CA)
Fish	Central Valley California Steelhead	Lassen (CA), Mendocino (CA), Shasta-Trinity (CA)
Fish	Central Valley Spring Run Chinook	Lassen (CA), Mendocino (CA), Shasta-Trinity (CA)
Fish	Columbia River Chum Salmon	Columbia River Gorge (OR)
Fish	Conasauga Logperch	Chatt-Oconee (GA), Cherokee (TN)
Fish	Gila Chub	Apache-Sitgreaves (AZ), Coconino (AZ), Coronado (AZ), Gila (NM), Prescott (AZ) Tonto (AZ)
Fish	Gulf Sturgeon	Apalachicola (FL)
Fish	Hood Canal Summer-run Chum Salmon	Olympic (WA)
Fish	Leopard Darter	Ouachita (AR)
Fish	Little Colorado Spinedace	Apache-Sitgreaves (AZ)
Fish	Little Colorado Spinedace	Coconino (AZ)
Fish	Little Kern Golden Trout	Sequoia (CA)
Fish	Loach Minnow	Apache-Sitgreaves (AZ), Coconino (AZ), Gila (NM), Prescott (AZ) Tonto (AZ)
Fish	Lower Columbia River Chinook	Columbia River Gorge (OR), Gifford-Pinchot (WA), Mount Hood (OR)
Fish	Lower Columbia River Steelhead	Columbia River Gorge (OR), Gifford-Pinchot



		(WA), Mount Hood (OR)
Fish	Middle Columbia River Steelhead	Columbia River Gorge (OR), Malheur (OR), Mount Hood (OR), Ochocho (OR), Umatilla (OR), Okanogan-Wenatchee (WA), Umatilla (OR)
Fish	Modoc Sucker	Modoc (CA)
Fish	Northern California Steelhead	Mendocino (CA), Six Rivers (CA)
Fish	Owen's Tui Chub	Inyo (CA)
Fish	Puget Sound Chinook Salmon	Mount Baker Snoqualmie (WA), Olympic (WA)
Fish	Razorback Sucker	Prescott (AZ), Coconino (AZ), Tonto (AZ)
Fish	Redfish Lake Sockeye Salmon	Payette, Boise, Sawtooth, Salmon Challis
Fish	S. Oregon/N. California Coast Coho Salmon	Rogue River-Siskiyou (OR)
Fish	Santa Ana sucker (latest final rule)	Angeles (CA)
Fish	Slender Chub	George Washington-Jefferson (VA)
Fish	Smoky Madtom	Cherokee (TN)
Fish	Snake R. Spr./Summer Chinook Salmon	Payette, Boise, Sawtooth, Salmon Challis
Fish	Snake River Basin Sockeye	Columbia River Gorge (OR), Wallowa-Whitman (OR)
Fish	Snake River Basin Steelhead	Boise, Sawtooth, Salmon Challis (ID)
Fish	Snake River Basin Steelhead	Columbia River Gorge (OR), Umatilla (OR), Wallowa-Whitman (OR)
Fish	Snake River Fall-run Chinook	Columbia River Gorge (OR), Umatilla (OR), Wallowa-Whitman (OR)
Fish	Snake River Spring/Summer-run Chinook	Columbia River Gorge (OR), Umatilla (OR), Wallowa-Whitman (OR)
Fish	Sonora chub	Coronado (AZ)
Fish	Southern California Steelhead	Los Padres (CA)
Fish	Southern Central California Coastal	Los Padres (CA)
Fish	Southern Oregon/Northern California Coho Salmon	Klamath (CA), Mendocino (CA), Shasta-Trinity (CA), Six Rivers (CA)
Fish	Spikedace	Apache-Sitgreaves (AZ), Coconino (AZ), Gila (NM), Prescott (AZ) Tonto (AZ)
Fish	Spotfin Chub	George Washington-Jefferson (VA), North Carolina (NC)
Fish	Upper Columbia River Spring-run Chinook	Columbia River Gorge (OR), Okanogan-Wenatchee (WA)
Fish	Upper Columbia River Steelhead	Columbia River Gorge (OR), Okanogan-Wenatchee (WA)
Fish	Upper Willamette River Chinook	Mount Hood (OR), Willamette (OR)
Fish	Upper Willamette River Steelhead	Willamette (OR)
Fish	Winter Run Chinook	Mendocino (CA)
Fish	Yellowfin Madtom	Cherokee (TN), George Washington-Jefferson (VA)
Invertebrate	Alabama Moccasinshell	Cherokee (TN)
Invertebrate	Coosa moccasinshell	Cherokee (TN)
Invertebrate	Cumberland elktoe	George Washington and Jefferson (VA)
Invertebrate	Cumberlandian combshell	George Washington and Jefferson (VA)
Invertebrate	Dark pigtoe	Alabama (AL)
Invertebrate	Fat threeridge	Apalachicola (FL)
Invertebrate	Fine-lined pocketbook	Cherokee (TN)
Invertebrate	Orange-nacre mucket	Alabama (AL)
Invertebrate	Oregon Silverspot Butterfly	Siuslaw (OR)

Invertebrate	Ovate clubshell	Cherokee (TN)
Invertebrate	Oyster mussel	George Washington and Jefferson (VA)
Invertebrate	Purple bankclimber	Apalachicola (FL)
Invertebrate	Purple bean	George Washington and Jefferson (VA)
Invertebrate	Quino Checkerspot Butterfly	San Bernardino (CA)
Invertebrate	Rough rabbitsfoot	George Washington and Jefferson (VA)
Invertebrate	Southern acornshell	Cherokee (TN)
Invertebrate	Southern clubshell	Cherokee (TN)
Invertebrate	Southern pigtoe	Cherokee (TN)
Invertebrate	Triangular kidneyshell	Cherokee (TN)
Invertebrate	Upland combshell	Cherokee (TN)
Mammal	Bighorn Sheep (Peninsular)	San Bernardino (CA)
Mammal	Mountain Graham Red Squirrel	Coronado (AZ)
Mammal	Prebles Meadow Jumping Mouse	Pike - San Isabel (CO)
Mammal	San Bernardino Kangaroo Rat	San Bernardino (CA)
Mammal	Virginia Big-eared Bat	Monangahela (WV)
Plant	<i>Allium munzii</i>	Cleveland (CA)
Plant	<i>Astragalus albens</i>	San Bernardino (CA)
Plant	<i>Astragalus montii</i>	Manti-LaSal (UT)
Plant	<i>Brodiaea filifolia</i>	Angeles (CA), Cleveland (CA)
Plant	<i>Ceanothus ophiochilus</i>	Cleveland (CA)
Plant	<i>Chlorogalum purpureum</i> var. <i>reductum</i>	San Bernardino (CA)
Plant	<i>Eriogonum ovalifolium</i> var. <i>vineum</i>	San Bernardino (CA)
Plant	<i>Eriogonum parishii</i>	San Bernardino (CA)
Plant	<i>Hudsonia montana</i>	Pisgah (NC)
Plant	<i>Lesquerella kingii</i> ssp. <i>bernardina</i>	San Bernardino (CA)
Plant	<i>Lilaeopsis schaffneriana</i> ssp. <i>recurva</i>	Coronado (AZ)
Plant	<i>Orcuttia tenuis</i>	Lassen (CA)
Plant	<i>Oxytheca parishii</i> var. <i>goodmaniana</i>	San Bernardino (CA)
Plant	<i>Senecio franciscanus</i>	Coconino (AZ)
Plant	<i>Sidalcea oregana</i> var. <i>calva</i>	Wenatchee (WA)
Plant	<i>Tuctoria greenei</i>	Lassen (CA)

The above list was verified by NMFS and FWS on 29 November and 19 December 2008, respectively.

### ATTACHMENT 3

#### Comparison of Key Components of the 1982, 2000 and 2008 Planning Rules.

1982 Planning Regulations	2000 Planning Regulations	2008 Planning Regulations
<p><b>Viability:</b> Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. (1982 NFMA regulations, at 36 CFR 219.19)</p>	<p><b>Species Diversity:</b> Plan decisions affecting species diversity must provide for ecological conditions that the responsible official determines provide a high likelihood that those conditions are capable of supporting over time the viability of native and desired non-native species well distributed throughout their ranges within the plan area, except as provided in paragraphs (b)(2)(ii)-(iv) of this section. Methods described in paragraph (a)(2)(ii) of this section may be used to make the determinations of ecological conditions needed to maintain viability. A species is well distributed when individuals can interact with each other in the portion of the species range that occurs within the plan area. When a plan area occupies the entire range of a species, these decisions must provide for ecological conditions capable of supporting viability of the species and its component populations throughout that range. When a plan area encompasses one or more naturally disjunct and self-sustaining populations of a species, these decisions must provide ecological conditions capable of supporting over</p>	<p><b>Sustainability:</b> The overall goal of the ecological element of sustainability is to provide a framework to contribute to sustaining native ecological systems by providing ecological conditions to support diversity of native plant and animal species in the plan area. This will satisfy the statutory requirement to provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives. (2008 NFMA regulation at 36 CFR 219.10(b)(2).</p> <p>If the responsible official determines that provisions in plan components, in addition to those required by paragraph (b)(1) of this section, are needed to provide appropriate ecological conditions for specific threatened and endangered species, species-of-concern, and species-of-interest, then the plan must include additional provisions for these species... (2008 NFMA regulations, at 36 CFR 219.10(b)(2).</p>

	<p>time viability of each population. When a plan area encompasses only a part of a population, these decisions must provide ecological conditions capable of supporting viability of that population well distributed throughout its range within the plan area. (2000 NFMA regulations, at 36 CFR 219.20(b)(2))</p>	
<p><b>Monitoring:</b> A program of monitoring and evaluation shall be conducted that includes consideration of the effects of National Forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon National Forest management of activities on nearby lands managed by other Federal or other government agencies or under the jurisdiction of local governments. (1982 NFMA regulations at 36 CFR 219.7(f))</p> <p>Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices(1982 NFMA regulations, at 36 CFR 219.11(d))</p> <p>Monitoring and evaluation. At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have</p>	<p><b>Monitoring:</b> (1) The responsible official must include scientist in the design an evaluation of monitoring strategies. Additionally, the responsible official must provide for an independent scientific peer review of plan monitoring on at least a biennial basis to validate adherence to appropriate protocols and methods in collecting and processing of monitoring samples and to validate that data are summarized and interpreted properly. (2) When appropriate and practicable, the responsible official should include scientists in the review of monitoring data and analytical results to determine trends relative to ecological, economic, or social sustainability. (2000 NFMA regulations, at 36 CFR 219.23(c)).</p>	<p><b>Monitoring:</b> The plan-monitoring program shall be developed with public participation and take into account financial and technical capabilities, key social, economic, and ecological performance measures relevant to the plan area, and the best available science. (2008 NFMA regulations at 36 CFR 219.6(b)(1))</p> <p>The plan-monitoring program shall provide for:  Monitoring to determine whether plan implementation is achieving multiple use objectives; Monitoring to determine the effects of the various resource management activities within the plan area on the productivity of the land; Monitoring of the degree to which on-the-ground management is maintaining or making progress toward the desired conditions and objectives for the plan; and Adjustments of the monitoring program as appropriate to account for</p>

<p>been met and how closely management standards and guidelines have been applied. Based upon this evaluation, the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as are deemed necessary. (1982 NFMA regulations, at 36 CFR 219.12(k)).</p>		<p>unanticipated changes in conditions. (2008 NFMA regulations, at 36 CFR 219.6(b)(2)).</p> <p>The responsible official may conduct monitoring jointly with others, including but not limited to Forest Service units, Federal, State, or local government agencies, federally recognized Tribes, and members of the public. (2008 NFMA regulations, at 36 CFR219.6(b)(3)).</p>
<p><b>ESA Compliance:</b> Nothing in the language of the 1982 NFMA planning regulations affects the consultation process, or the USDA Forest Service’s obligations under the Act.</p>	<p><b>ESA Compliance:</b> Nothing in the language of the 2000 NFMA planning regulations affects the consultation process, or the USDA Forest Service’s obligations under the Act.</p>	<p><b>ESA Compliance:</b> Nothing in the language of the 2008 NFMA planning regulations affects the consultation process, or the USDA Forest Service’s obligations under the Act.</p>
<p><b>Land and Resource Management Plans:</b> The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (hereafter, RPA). These regulations prescribe how land and resource management planning is to be conducted on National Forest System lands. The resulting plans shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an</p>	<p><b>Land and Resource Management Plans:</b> Land and resource management planning guides how the Forest Service will fulfill its stewardship of the natural resources of the National Forest System to fulfill the designated purposes of the national forests and grasslands and honor their unique place in American life. The regulations in this subpart set forth a process for amending and revising land and resource management plans, hereafter referred to as plans, for the National Forest System and for monitoring the results of plan implementation under the Forest and Rangeland Renewable Resources Act of 1974, as amended by the</p>	<p><b>Land Management Plans:</b> The rules of this subpart set forth a process for land management planning, including the process for developing, amending, and revising land management plans (also referred to as plans) for the National Forest System, as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq), hereinafter referred to as NFMA. This subpart also describes the nature and scope of plans and sets forth the required components of a plan. (2008 NFMA regulations at 36 CFR 219.1(a)).</p>

<p>environmentally sound manner. (1982 NFMA regulations at 36 CFR 219.1(a))</p> <p>Plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System. They determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management. (1982 NFMA regulations at 36 CFR 219.1(b))</p>	<p>National Forest Management Act of 1976, 16 U.S.C. 1600 et seq. The regulations in this subpart also guide the selection and implementation of site-specific actions. (2000 NFMA regulations, at 36 CFR 219.1(a)).</p> <p>(1) The national forests and grasslands provide a wide variety of uses, values, products, and services that are important to many people, including outdoor recreation, forage, timber, wildlife and fish, biological diversity, productive soils, clean air and water, and minerals. They also afford intangible benefits such as beauty, inspiration, and wonder. (2) To assure the continuation of this array of benefits this regulation affirms sustainability as the overall goal for stewardship of the natural resources of each national forest and grassland consistent with the laws that guide management of these lands. (3) Sustainability, composed of interdependent ecological, social, and economic elements, embodies the principles of multiple-use and sustained-yield without impairment to the productivity of the land. Sustainability means meeting needs of the present generation without compromising the ability of future generations to meet their needs. Planning</p>	<p>...the overall goal of managing the National Forest System is to sustain the multiple uses of its renewable resources in perpetuity while maintaining the long-term productivity of the land. Resources are to be managed so they are utilized in the combination that will best meet the needs of the American people. Maintaining or restoring the health of the land enables the National Forest System to provide a sustainable flow of uses, benefits, products, services, and visitor opportunities. (2008 NFMA regulations at 36 CFR 219.1(b))</p>
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	contributes to social and economic sustainability without compromising the basic composition, structure, and functioning of ecological systems. The progress toward achievement of sustainability is assessed through monitoring and evaluation. (2000 NFMA regulations, at 36 CFR 219.1(b)).	
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## **ATTACHMENT 4**

This attachment contains the chronology of contacts between NOAA, FWS, and USDA Forest Service regarding the development and affects of the 2008 Planning Rule.

### **Contacts with NOAA**

June 20, 2007

Telephone conversation: C. Iverson (Assistant Director, Wildlife/TES/Planning, USDA Forest Service) spoke with Angela Somma (Chief, Endangered Species Division, NOAA, National Marine Fisheries Service).

June 20, 2007

C. Iverson faxed 2000 Planning Rule Biological Assessment and NOAA letter of agreement on BA conclusion of “No Effect” of the proposed planning rule on listed species to Angela Somma.

June 21, 2007

C.Iverson email to Angela Somma explaining the framework of proposed planning rule and the agency Directives.

July 3, 2007

Angela Somma emailed C. Iverson acknowledging receipt and review of electronic versions of the 2005 Planning Rule Forest Service Directives (Manual and Handbook).

August 23, 2007

Angela Somma returned telephone call to C. Iverson, discussing the proposed Forest Service Planning Rule and ESA consultation.

August 23, 2007

C. Iverson emailed link to website for the Forest Service proposed planning rule and Draft Environmental Impact Statement to Angela Somma.

September 5, 2007

Angela Somma email to C. Iverson sending 2 documents as examples of programmatic consultations that NOAA Fisheries had conducted.

September 18, 2007

Email from Marc Bosch (Forest Service TES National Program Leader) to Angela Somma.

September 18, 2007

Email response from Angela Somma to Marc Bosch.

September 18, 2007

Meeting at NOAA Fisheries office in Silver Spring, Maryland – Angela Somma and a member of her staff with George Iverson and Wayne Owen (Forest Service Washington



office planning biologist) to discuss the Biological Assessment and effects analysis of the proposed planning rule.

November 19, 2007

C. Iverson called Angela Somma to discuss the emerging Forest Service approach to effects analysis of the planning rule.

November 21, 2007

Forest Service requests from NOAA (see document 8 in Attachment 5) confirmation of list of endangered, threatened, and proposed species and designated and proposed critical habitat.

November 29, 2007

NOAA replies to the 21 November 2007 Forest Service letter.

January 17, 2008

Telephone conference call between Forest Service and NOAA.

### **Contacts with FWS**

September 5, 2007

C. Iverson called Dr. Rick Sayers (Chief, Division of Consultation, HCPs, Recovery, and State Grants).

November 21, 2007

Forest Service requests from FWS (see document 7 in Attachment 5) confirmation of list of endangered, threatened, and proposed species and designated and proposed critical habitat.

December 6, 2007. C. Iverson called Dr. Rick Sayers.

December 19, 2007

FWS replies to the Forest Service letter of 21 November 2007 via telephone message.

## **ATTACHMENT 5**

This section contains copies of correspondence referred to in the body of this Biological Assessment pertaining to the consultation history between USDA Forest Service, NOAA, and the FWS.

**Document 1:** Biological Assessment prepared for the 2000 planning rule by M Bosch and S. Brown, April 2, 2001

**Document 2:** Forest Service letter to Fish and Wildlife Service (FWS) conveying the Biological Assessment for the 2000 planning rule (Item 1, above) requesting review and comment, April 3, 2001.

**Document 3:** Forest Service letter to NOAA National Marine Fisheries Service (NOAA) conveying the Biological Assessment for the 2000 planning rule (Item 1, above) requesting review and comment, April 3, 2001.

**Document 4:** Letter from FWS (in response to Item 2, above) stating that the conclusions of the Biological Assessment (Item 1, above) are “well founded,” April 20, 2001.

**Document 5:** Letter from NOAA (in response to Item 3, above) stating that “We agree that the final rule would not...result in effects to listed species or... critical habitat, May 11, 2001

**Document 6:** Biological Assessment prepared for the 2005 planning rule by C. Iverson, June 17, 2004.

**Document 7:** Letter to FWS requesting confirmation of species and critical habitat lists used in the development of the Biological Assessment for the 2008 planning rule, 21 November 2007.

**Document 8:** Letter to NOAA requesting confirmation of species and critical habitat lists used in the development of the Biological Assessment for the 2008 planning rule, 21 November 2007.

**Document 9:** Letter from NOAA responding to our request for confirmation of our species and habitat lists (Item 8, above), November 29, 2007

**Document 10:** Letter from FWS responding to our requested for confirmation of our species and habitat lists (Item 7, above), December 20, 2007.

## **Determination for Threatened, Endangered, and Proposed Species, and Designated and Proposed Critical Habitat**

**For**

### **The National Forest System Land and Resource Management Planning Final Rule**

This analysis has been prepared to examine whether the Final Rule for National Forest System Land and Resource Management Planning (final rule) would have effects on threatened, endangered, and proposed (TEP) species or on designated and proposed critical habitat. The final rule was published in the Federal Register on November 9, 2000 (Federal Register, Vol. 65, No. 218, pp. 67514-67581; Attachment 1). The final rule establishes a new planning process for the National Forest System (NFS). Background regarding the development of the final rule is provided in the preamble to the rule (see particularly FR Vol. 65, No. 218, pp.67515-67517).

The Forest Service prepared an environmental assessment (EA) to examine potential environmental impacts associated with the final rule. The EA concluded that the action “. . . would not, by itself, result in environmental consequences” (Attachment 2, EA, p.3). The Agency published a Finding of No Significant Impact (Attachment 2).

The promulgation of the final rule is not a “major construction activity”, as defined in the implementing regulations for the Endangered Species Act (ESA) at 50 CFR 402.02. As such, preparation of a biological assessment is not required (50 CFR 402.12(b)). Although a biological assessment is not required, we have chosen to complete an analysis in order to examine whether the final rule has effects on TEP species or critical habitat, such that consultation or conferencing under Section 7 of the ESA would be necessary. The threatened and endangered species with habitat on NFS lands are listed in Attachment 3.

This analysis does not take the place of site-specific, project, or programmatic (e.g. land and resource management plan) planning and analysis that will be done for future decisions and activities on NFS lands. Section 7 consultation for threatened and endangered species and designated critical habitat will be conducted for actions authorized, funded, or carried out by the Forest Service, when needed.

#### **Description of the Action**

The final rule establishes procedures for land and resource management planning for National Forest System lands. In order to provide an accurate and complete description of the action, it is provided in its entirety in Attachment 1. A comparison of the elements of the 1982 planning rule and this final rule is included in Attachment 4.

### Interagency Cooperation

The Forest Service sought extensive outside review and advice regarding its planning process in general and the planning regulations in particular. This included interactions with representatives of the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (FWS), the Department of Commerce, and state and tribal governments. The comments submitted by the FWS on the proposed planning rule included a reminder about the need to consult under the ESA for any amendments or changes to land and resource management plans prepared pursuant to the final rule. No written comments on the purposed planning rule were submitted by NMFS.

### Determination of Effects

Preparation of this analysis has entailed a thorough review of the final rule, and the associated EA and FONSI.

The final rule establishes procedures for land and resource management planning for National Forest System lands. It is clear that the final rule, in itself, does not predetermine management activities for specific project areas or land management plan decisions, nor does it authorize, fund, or carry out any habitat or resource disturbing activities. It does not make any land use allocations, nor does it establish specific standards or guidelines for management of resources. The final rule, being strictly a procedural document, will not directly result in changes in the management of any particular National Forest or Grassland or in the activities permitted or conducted on those lands. Moreover, because of the procedural nature of the final rule, there is no reasonable basis for assessing or quantifying the specific effects of any subsequent actions, as such effects will depend upon decisions made during future programmatic and project planning and it is premature to speculate on the specific nature or effects of those decisions.

Based on my evaluation of the final rule, and the associated EA and FONSI, I have determined that the final rule, in itself, will have no effect to threatened, endangered, or proposed species or to designated or proposed critical habitat.

Prepared by: *Derna L. Brown* Date: *April 2, 2001*

Reviewed by: *Mark Bosil* Date: *April 2, 2001*



United States  
Department of  
Agriculture

Forest  
Service

Washington Office

14<sup>th</sup> & Independence SW  
P.O. Box 96090  
Washington, DC 20090-6090

File Code: 2670

Date: April 3, 2001

Mr. Gary Frazer  
Assistant Director for Ecological Services  
United States Department of the Interior  
1849 C Street, Northwest  
Washington, DC 20240

Dear Mr. Frazer:

The Forest Service published the final rule for National Forest System Land and Resource Management Planning (final rule) on November 9, 2000 (Federal Register, Vol. 65, No. 218, pp. 67514-67581). We are requesting your review and comments on our determination that the final rule, in itself, will have no effect to threatened, endangered, or proposed species or to designated or proposed critical habitat.

To facilitate your review, we have enclosed our determination and supporting analysis for the final rule. The determination includes, as an attachment, a list of endangered, threatened, and proposed species that may be present within National Forest System lands. Please note that, as part of consultation on a previous action, we requested and received concurrence in January 2001 from your agency on this list. Other attachments to the determination include a copy of the final rule as published in the Federal Register, the Environmental Assessment and FONSI completed for the final rule, and a table comparing the 1982 planning rule with this final rule.

We appreciate your prompt attention to this request. If you have any questions, please contact Seona Brown, with the Watershed, Fisheries and Wildlife Staff, at (202) 205-1262.

Sincerely,

*/s/ Paul Brouha for*

JAMES R. FURNISH  
Deputy Chief for  
National Forest System

## Enclosures:

Determination for Threatened, Endangered and Proposed Species, and Designated and Proposed Critical Habitat for the National Forest System Land and Resource Management Planning Final Rule (with attachments)

cc (with enclosure):

Mr. John Fay, USDI Fish and Wildlife Service





United States  
Department of  
Agriculture

Forest  
Service

Washington Office

14<sup>th</sup> & Independence SW  
P.O. Box 96090  
Washington, DC 20090-6090

File Code: 2670

Date: April 3, 2001

Mr. Don Knowles  
Director, Office of Protected Resources  
United States Department of Commerce  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3282

Dear Mr. Knowles:

The Forest Service published the final rule for National Forest System Land and Resource Management Planning (final rule) on November 9, 2000 (Federal Register, Vol. 65, No. 218, pp. 67514-67581). We are requesting your review and comments on our determination that the final rule, in itself, will have no effect to threatened, endangered, or proposed species or to designated or proposed critical habitat.

To facilitate your review, we have enclosed our determination and supporting analysis for the final rule. The determination includes, as an attachment, a list of endangered, threatened, and proposed species that may be present within National Forest System lands. Please note that, as part of consultation on a previous action, we requested and received concurrence in January 2001 from your agency on this list. Other attachments to the determination include a copy of the final rule as published in the Federal Register, the Environmental Assessment and FONSI completed for the final rule, and a table comparing the 1982 planning rule with this final rule.

We appreciate your prompt attention to this request. If you have any questions, please contact Seona Brown, with the Watershed, Fisheries and Wildlife Staff, at (202) 205-1262.

Sincerely,

*/s/ Paul Brouha for*

JAMES R. FURNISH  
Deputy Chief for  
National Forest System

## Enclosures:

Determination for Threatened, Endangered and Proposed Species, and Designated and Proposed Critical Habitat for the National Forest System Land and Resource Management Planning Final Rule (with attachments)

cc (with enclosure):

Mr. Craig Johnson, National Marine Fisheries Service





# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240

In Reply Refer To:  
FWS/AES/OCHR

APR 20 2001

Mr. James R. Furnish  
Deputy Chief for the National Forest System  
U.S. Forest Service  
P.O. Box 96090  
Washington, D.C. 20090-6090

Dear Mr. Furnish:

Thank you for the opportunity to review the determination that the Forest Service's recent adoption of a final rule governing land and resource management planning will not affect threatened, endangered, or proposed species or designated or proposed critical habitat. You also provided a copy of the rule, the Environmental Assessment and Finding of No Significant Impact prepared in connection with its adoption, and a species list for the National Forest System with which we had previously concurred. The Service also commented on a draft version of the rule and contributed to comments on the proposed rule prepared by the Department of the Interior.

We note that the Forest Service's determination in this instance is confined to the possible effects of the planning rule itself, and that plans undertaken pursuant to the rule and projects considered under those plans will be subject to separate consideration and analysis of potential effects on listed species and their habitat. We agree that the rule is procedural in nature, does not force specific identifiable resource outcomes on the National Forest System, and thus does not have discernable effects on species or habitat. Consequently, your "no effect" determination is well founded.

If you have further need to discuss this matter, please contact Dr. Renne Lohofener, Chief, Division of Consultation, Habitat Conservation Planning, Recovery and State Grants (703)358-2171.

Sincerely,

Assistant Director for Endangered Species

4/25/01: Orig to EMC  
Copies to WFRP/WFA; Furnish,  
Collins & Brouha



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Silver Spring, MD 20910

MAY 11 2001

James R. Furnish  
Deputy Chief for National Forest System  
U.S. Department of Agriculture  
14<sup>th</sup> & Independence SW  
Washington, DC 20090-6090

Dear Mr. Furnish:

This letter is in response to your request for comments on your determination that the final rule for National Forest System Land and Resource Management Planning will have no effect on threatened, endangered, or proposed species or to designated or proposed critical habitat. We reviewed the November 9, 2000, final rule (Federal Register, Vol. 65, No. 218, pp. 67514-67581), determination statement, Environmental Assessment and FONSI, and table comparing the 1982 planning rule with the current final rule.

We understand that the current final rule established procedures for amending and revising forest plans. Our review indicates that the final rule does not define activities that would be allowed on national forests and grasslands and does not predetermine management activities. As stated in the determination statement, there is no basis for assessing the effects of any subsequent actions because the final rule, by itself would not lead to any physical changes in plan areas. Effects could arise with decisions made during future planning, at which time the area plan or site-specific project would be subject to an analysis of potential effects on listed species and their habitat.

We agree that the final rule would not, in itself, result in effects to listed or proposed species or designated or proposed critical habitat. Without knowledge of subsequent actions taken under the final rule, it is not possible to conduct a meaningful and comprehensive evaluation of the effects from the rule and the subsequent actions. We expect to receive information from the Forest Service as area plans and site-specific projects are





developed, for use in consultations pursuant to the Endangered Species Act of 1973, as amended.

Thank you for the opportunity to provide comments. We look forward to continuing coordination and cooperation with the Forest Service in addressing listed species and critical habitat concerns on other upcoming tasks.

Sincerely

*Wandell*

f Donald R. Knowles  
Director  
Office of Protected Resource

## **Determination for Threatened, Endangered, and Proposed Species, and Designated and Proposed Critical Habitat**

**For**

### **The National Forest System Land and Resource Management Planning Draft Final Rule**

This analysis has been prepared to examine whether the Draft Final Rule (June 1, 2004 version) for National Forest System Land and Resource Management Planning (Draft Final Rule) would have effects on threatened, endangered, and proposed (TEP) species or on designated and proposed critical habitat. The final rule establishes a new planning process for the National Forest System (NFS). Background regarding the development of the draft final rule is provided in the preamble to the rule.

The promulgation of this planning rule is not a "major construction activity", as defined in the implementing regulations for the Endangered Species Act (ESA) at 50 CFR 402.02. As such, preparation of a biological assessment is not required (50 CFR 402.12(b)). Although a biological assessment is not required, an analysis was conducted in order to examine whether the draft final rule has effects on TEP species or critical habitat, such that consultation or conferencing under Section 7 of the ESA would be necessary.

This analysis does not take the place of site-specific, project, or programmatic (e.g. land and resource management plan) planning and analysis that will be done for future decisions and activities on NFS lands. Section 7 consultation for threatened and endangered species and designated critical habitat will be conducted for actions authorized, funded, or carried out by the Forest Service, when needed.

#### **Description of the Action**

The planning rule establishes procedures for the development of land and resource management plans for National Forest System lands as required in the National Forest Management Act. This draft final planning rule replaces the 1982 planning rule at 36 CFR 219.

#### **Interagency Cooperation**

The Forest Service sought outside review and advice regarding its planning process in general and the planning regulations in particular. A Proposed Rule was released for public comment on December 6, 2002 (67 Federal Register 72770). Over 195,000 comments were received. In addition, from February 18-20, 2003, the agency sponsored a Diversity Options Workshop that involved scientists, representatives from State and Federal resource agencies, State and local officials, conservation organizations. The workshop reviewed 2

options offered in the proposed rule to addressing the NFMA requirement to provide for the diversity of plant and animal communities based upon the suitability and capability of the specific land area in order to meet overall multiple use objectives (16 U.S.C. 1604(g)(3)(B)). This included interactions with representatives of the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (FWS). Results of the workshop contributed to development to this draft final rule.

### **Determination of Effects**

The draft final rule establishes procedures for land and resource management planning for National Forest System lands. It is clear that the draft final rule, in itself, does not predetermine management activities for specific project areas or land management plan decisions, nor does it authorize, fund, or carry out any habitat or resource disturbing activities. It does not make any land use allocations, nor does it establish specific standards or guidelines for management of resources. The final rule, being strictly a procedural document, will not directly result in changes in the management of any particular National Forest or Grassland or in the activities permitted or conducted on those lands. Moreover, because of the procedural nature of the draft final rule, there is no reasonable basis for assessing or quantifying the specific effects of any subsequent actions, as such effects will depend upon decisions made during future programmatic and project planning and it is premature to speculate on the specific nature or effects of those decisions.

Based on my review of the draft final rule, I have determined that the final rule, in itself, will have no effect to threatened, endangered, or proposed species or to designated or proposed critical habitat.

**Prepared by: /s/ George C. Iverson**

**Date: June 17, 2004**



File Code: 2670

Date: November 21, 2007

Mr. Rick Sayers  
Endangered Species Program  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive, Room 420  
Arlington, VA 22203

Dear Mr. Sayers:

We are conducting an Endangered Species Act Biological Assessment for the Forest Service's proposed action to adopt a new National Forest Management Act Planning Rule, which will establish procedures to be used when National Forests and Grasslands develop or revise land management plans.

To ensure that we consider likely effects to appropriate threatened and endangered (T&E) species, I am asking for Service review of the list of threatened, endangered, and proposed species and of designated and proposed critical habitat, that we believe currently either may be present on National Forest System lands, or could be affected by our management actions. I have enclosed the latest versions of the national Forest Service T&E species and critical habitat lists that we periodically share with you, and that have been used in recent nation-wide section 7 consultations.

Please inform me at your earliest convenience if this is an appropriate list for us to use, or whether there are changes to bring to our attention.

If you have any questions regarding this request, please contact Marc Bosch, TES Program Leader at 202.205.1220, [mbosch@fs.fed.us](mailto:mbosch@fs.fed.us).

Sincerely,

*/s/ Anne J. Zimmermann*  
ANNE J. ZIMMERMANN  
Director, Watershed, Fish, Wildlife, Air and Rare Plants

Enclosures





File Code: 2670

Date: November 21, 2007

Ms. Angela Somma  
Endangered Species Division  
Office of Protected Resources  
NOAA Fisheries, SSMC3 - F/PR3  
1315 East West Highway  
Silver Spring, MD 20910

Dear Ms. Somma:

We are conducting an Endangered Species Act Biological Assessment for the Forest Service's proposed action to adopt a new National Forest Management Act Planning Rule, which will establish procedures to be used when National Forests and Grasslands develop or revise land management plans.

To ensure that we consider likely effects to appropriate threatened and endangered (T&E) species, I am asking for Service review of the list of threatened, endangered, and proposed species and of designated and proposed critical habitat, that we believe currently either may be present on National Forest System lands, or could be affected by our management actions. I have enclosed the latest versions of the national Forest Service T&E species and critical habitat lists that we periodically share with you, and that have been used in recent nation-wide section 7 consultations.

Please inform me at you earliest convenience if this is an appropriate list for us to use, or whether there are changes to bring to our attention.

If you have any questions regarding this request, please contact Marc Bosch, TES Program Leader at 202.205.1220, [mbosch@fs.fed.us](mailto:mbosch@fs.fed.us).

Sincerely,

*/s/ Anne J. Zimmermann*  
ANNE J. ZIMMERMANN  
Director, Watershed, Fish, Wildlife, Air and Rare Plants

Enclosures





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Silver Spring, MD 20910

NOV 29 2007

Ms. Anne J. Zimmermann  
Director, Watershed, Fish, Wildlife, Air and Rare Plants  
United States Forest Service  
1400 Independence Avenue, SW  
Washington, DC 20250

Dear Ms. Zimmermann:

In response to your November 21, 2007 request, we reviewed the national Forest Service list of the threatened, endangered, and proposed species and designated and proposed critical habitat, focusing only on those under our jurisdiction. The list includes species and critical habitats that may be affected by the adoption of a new National Forest Management Act Planning Rule. Based on our review of the list, distributions of listed species and locations of critical habitats, and locations of National Forest System lands, the two following species should be added to your list:

- Cook Inlet beluga whale (*Delphinapterus leucas*) – proposed for listing as endangered (72 *Federal Register* 19854, April 20, 2007) and
- Southern Resident killer whale (*Orcinus orca*) – listed as endangered; critical habitat designated on November 29, 2006.

Although these marine mammal species are not in National Forest lands, the Cook Inlet beluga whale inhabits waters adjacent to Chugach National Forest and the Southern Resident killer whale inhabits Puget Sound whose watershed includes National Forest lands. These species, in addition to the endangered and threatened species and critical habitats already included in your list, may be affected by management actions on the forest system lands.

If you have any questions on the additional species or as you gather information for a consultation under section 7 of the Endangered Species Act, please contact me or Mi Ae Kim at 301-713-1401. We look forward to receiving your Biological Assessment on the adoption of the National Forest Management Act Planning Rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Somma".

Angela Somma  
Chief, Endangered Species Division





# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



In Reply Refer To:  
FWS/AES/DCHRS/034393

DEC 20 2007

Ms. Anne J. Zimmermann  
Director, Watershed, Fish, Wildlife, Air  
and Rare Plants  
USDA Forest Service  
1400 Independence Avenue SW  
Washington, DC 20250

Dear Ms. Zimmermann: <sup>Anne</sup>

On November 21, 2007, you transmitted a list of endangered, threatened, and proposed species and proposed and designated critical habitats that the Forest Service had determined may be present on National Forest System lands or may be affected by the Forest Service's adoption of a new National Forest Management Act Planning Rule. We have examined the lists you provided and confirm that they are up to date and appropriate for you to use in preparing a Biological Assessment on preparation of the planning rule.

If we can further assist in your efforts to complete this important task, please contact us.

Sincerely,

Richard E. Sayers, Jr.,  
Chief, Division of Consultation,  
Habitat Conservation Planning,  
Recovery and State Grants