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United States
Department of
Agriculture

Forest Service



United States
Department of
the Interior

Bureau of Land
Management



February 1994

Record of Decision/ Forest Ecosystem Plan

for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl



Record of Decision

RECORD OF DECISION

for

**Management of Habitat for Late-Successional
and Old-Growth Forest Related Species
on Forest Service and Bureau of Land Management Lands
Within the Range of the Northern Spotted Owl**

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Decision

This Record of Decision (ROD) presents our decision to adopt the attached Forest Ecosystem Plan. The Forest Ecosystem Plan establishes additional management direction for the lands administered by the Forest Service and the Bureau of Land Management within the range of the northern spotted owl in Washington, Oregon, and California. This decision amends the current land and resource management plans with additional land allocations and standards and guidelines. This decision adopting the Forest Ecosystem Plan amends all applicable existing plans, and will also be incorporated in plans developed in the future.

The environmental consequences of this decision are disclosed in the *Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl* (hereafter "Final SEIS"). The Notice of Availability of the Final SEIS was published in the *Federal Register* on February 25, 1994.

Application to Land and Resource Management Plans

Land and resource management plans completed, revised, or amended after this decision must be in conformance with the management direction of the Forest Ecosystem Plan. Development of these plans will be closely coordinated with other agencies and is subject to review by the Regional Interagency Executive Committee.

Bureau of Land Management

Districts With Resource Management Plans -- For those Bureau of Land Management Districts within, and for those portions of Districts partially within, the range of the northern spotted owl with approved Resource Management Plans, this decision amends existing plans. These include the Resource Management Plans for the Redding Resource Area and the Arcata Resource Area, and the King Range National Conservation Area Management Program, all within the Ukiah District, California.

Districts Without Resource Management Plans -- For those Bureau of Land Management Districts within, and for those portions of Districts partially within, the range of the northern spotted owl without approved Resource Management Plans, this decision amends all applicable Management Framework Plans and Timber Management Plans. These include the plans for the Coos Bay, Eugene, Medford, Roseburg, and Salem Districts and the Klamath Resource Area of the Lakeview District.

These units have issued Draft Resource Management Plans. The Draft Environmental Impact Statements (EIS's) for those draft plans have been supplemented by the Final SEIS. The Final Resource Management Plans and their Final EIS's will incorporate the land allocations, standards and guidelines, and other management direction of this decision.

Forest Service

Regional Guides -- This decision amends the Regional Guides (as previously amended) for those portions of the Pacific Northwest Region (Region 6) and the Pacific Southwest Region (Region 5) for those portions of the Regions within the range of the northern spotted owl.

National Forests With Forest Plans -- For those National Forests within, and for those portions of National Forests partially within, the range of the northern spotted owl with approved Land and Resource Management Plans (Forest Plans), this decision amends existing Forest Plans. Those National Forests wholly within the range include the Gifford Pinchot, Mount Baker-Snoqualmie, Mount Hood, Olympic, Rogue River, Siuslaw, Siskiyou, Umpqua, and Willamette National Forests. National Forests partially within the range include the Deschutes, Okanogan, Wenatchee, Winema, Lassen, and Modoc National Forests; this decision amends Forests Plans only for those portions within the range of the northern spotted owl.

National Forests Without Forest Plans -- For those National Forests within, and for those portions of National Forests partially within, the range of the northern spotted owl without approved Forest Plans, this decision amends all applicable Unit Plans and resource management plans. These include the plans for the Klamath, Shasta-Trinity, Mendocino, and Six Rivers National Forests.

These units have issued Draft Forest Plans. The Draft Environmental Impact Statements (EIS's) for those draft plans have been supplemented by the Final SEIS. The Final Forest Plans and their Final EIS's will incorporate the land allocations, standards and guidelines, and other management direction of this decision.

Current Plans and Draft Plan Preferred Alternatives

Although this plan supplements existing plans, this plan also incorporates certain standards and guidelines from Draft National Forest Plans and Draft BLM Resource Management Plans. When this plan was prepared, beginning in April 1993, BLM Districts and National Forests either had completed (current) Forest and Resource Management Plans, or they were in the process of developing such plans. For those units that had not completed their plans, the then-current version, or draft, of the unit's preferred alternative was identified. These current plans and draft plan preferred alternatives were used as the base or starting point for this plan. Therefore, except as specifically excepted, standards and guidelines from these plans apply where they are more restrictive or provide greater benefits to late-successional forest related species than other standards and guidelines in this plan.

The quantity of timber that could be offered for sale beginning in the current fiscal year will be based upon the probable sale quantity implications of the standards and guidelines and the land use allocations of both this decision combined with the current management direction which remains in effect. As Forest Plans and Resource Management Plans are completed or revised, the resulting estimated sustainable timber sale quantity will be determined.

Application to Project-Level Decisions

From the date of this decision, all future management activities, and all new or renewed permits, contracts, cooperative agreements, and other instruments for occupancy and use on lands are to be consistent with the land allocations, standards and guidelines, and other management direction adopted by this decision, except as noted in this Record and the Forest Ecosystem Plan.

This decision requires the adjustment of some ongoing actions and existing instruments. Managers shall review ongoing management activities, and existing approved permits, contracts, cooperative agreements, and other instruments for occupancy and use on lands based on earlier decisions to assure that they are consistent, or are adjusted so that future actions are consistent, with the management direction in this decision, except as noted in this Record and the Forest Ecosystem Plan. Most management actions and instruments requiring adjustment are in Riparian Reserves and Key Watersheds.

Those management actions and instruments approved prior to this decision may continue, if this decision does not specifically require adjustment. However, managers may review those actions and instruments, and, where revisions can be made at minimal cost, revise them to be in closer conformance with the management direction in this decision.

An agency shall not proceed with the award of any unawarded timber sale unless it is modified to conform to the land allocations, standards and guidelines, and other management direction established by this decision.

Timber sales which were previously awarded may proceed under the conditions of the contract with any modifications made prior to this decision. Timber sales which were awarded but enjoined from operation may proceed upon the lifting of the injunction, under the conditions of the contract with any modifications made prior to this decision.

Application to Research Activities

The intent of Adaptive Management Areas and Experimental Forests for research and monitoring is well documented and it is clear that research should not be restricted to just those areas. Research may be conducted wherever necessary consistent with applicable laws, regulations, and the Forest Ecosystem Plan. The standards and guidelines in the Forest Ecosystem Plan were developed based on (1) the best scientific information available, and (2) core assumptions on how best to meet the conservation objectives described in the plan. Research is needed to evaluate those assumptions and will require experimentation to test and refine those standards and guidelines. It is the intent of this plan to support continued research and development activities on federal forests to advance our understanding of those assumptions and provide new information. Some research activities (including those within Experimental Forests) not otherwise consistent with the management direction of this decision may be appropriate. Every effort should be made to locate non-conforming activities in land allocations where they will have the least adverse effect on plan objectives.

Specific standards and guidelines that apply to research activities on federal lands within the

range of the northern spotted owl are described in Section C, Standards and Guidelines in the Forest Ecosystem Plan.

Relationship to Other Plans and Proposals

Related plans and proposals that merit special mention include plans for National Scenic Areas, Monuments, Wildernesses, National Wild and Scenic Rivers; species recovery plans; the proposal to issue a special Section 4(d) rule under the Endangered Species Act (hereafter referred to as the "4(d) rule") for the northern spotted owl; PACFish; and eastside forests. A description of the relationship of these decisions to the Forest Ecosystems Plan follows.

Approved plans for National Scenic Areas, Monuments, Wild and Scenic Rivers, and for Wildernesses continue to apply where they are more restrictive or provide greater benefits for late-successional species.

If they differ, existing species recovery plans take precedence over the Forest Ecosystem Plan. The Forest Ecosystem Plan incorporates features of the *Final Draft Recovery Plan for the Northern Spotted Owl* and the management direction and land allocations in the Forest Ecosystem Plan constitute the federal contribution to the recovery of the northern spotted owl. We expect that future recovery plans for any listed species dependent on the forest habitat in the Pacific Northwest will use this Forest Ecosystem Plan as a base from which to build a strategy for recovery.

The proposal to issue a special 4(d) rule for the northern spotted owl would revise the federal protective measures for the northern spotted owl on some nonfederal lands. The proposal is intended to complement and be consistent with the management direction for federal lands provided in this decision. A separate EIS is being prepared to disclose the impacts of any revised protection measures. The effect of the proposed 4(d) rule has been considered in addressing cumulative impacts in the Final SEIS for this Forest Ecosystem Plan. In turn, the U. S. Fish and Wildlife Service will consider this Forest Ecosystem Plan and its accompanying Final SEIS in making the final decision on the 4(d) rule.

During the last several years, the Forest Service and BLM have been engaged in a joint effort known as the PACFish Strategy to develop a conservation plan to preserve and enhance stream habitat for wild anadromous fish stocks in the Pacific Northwest on lands under their administration. When the PACFish effort completes a conservation plan, the Forest Service and BLM will review the Forest Ecosystem Plan to determine whether any changes would be needed. However, the elements of that developing strategy that are applicable to forest lands west of the Cascades Range have already been incorporated into the Forest Ecosystem Plan.

At the April 1993 Forest Conference in Portland, Oregon, several speakers urged President Clinton to include the old-growth ecosystems east of the Cascades Range in any proposed solution to the crisis. Because the conditions of the ecosystems east of the Cascades are substantially different than those west of the Cascades, it is not appropriate to include these forests in this Forest Ecosystem Plan. However, a similar effort has been initiated by the agencies to develop a plan for the federal wildland ecosystems east of the Cascades, called the "Eastside Oregon and Washington Ecosystem Management Strategy Project".

Relationship to Other Lands

While the influence of activities on lands administered by the Fish and Wildlife Service, National Park Service, and Department of Defense was considered in the assessment of cumulative impacts in the Final SEIS, no new management direction for those lands is presented here. This decision assumes these other federal lands will be managed according to existing management plans and applicable federal law. Likewise, this decision does not establish direction or regulation for lands administered by private individuals, corporations, tribes, or state and local governments.

The Alternatives

Alternatives Considered

The Final SEIS presents 10 action alternatives. Based primarily on the "reserve" recommendations of previous efforts by the Interagency Scientific Committee, the Scientific Panel on Late-Successional Forest Ecosystems, and the Scientific Analysis Team, these alternatives present various mixes of Late-Successional Reserves, Managed Late-Successional Areas, Riparian Reserves, and, in Alternative 9, Adaptive Management Areas. These reserves are integrated with existing Congressionally Reserved Areas and Administratively Withdrawn Areas to create a network of late-successional forests and watershed protection. These alternatives provide for various levels of habitat for late-successional forest related species and result in various levels of social and economic benefits. There are 24,455,300 acres of federal lands within the range of the northern spotted owl (the planning area), allocated in each alternative in some mix of the following land allocation categories. They are listed below:

Congressionally Reserved Areas -- This category includes Wildernesses, Wild and Scenic Rivers, National Monuments, as well as other federal lands not administered by the Forest Service or BLM. The location and size of these areas do not change among the alternatives.

Late-Successional Reserves -- These areas are identified with an objective to protect and enhance conditions of late-successional and old-growth forest ecosystems, which serve as habitat for late-successional and old-growth related species including the northern spotted owl. For most alternatives, some level of silvicultural treatment, including salvage, is permitted in certain stands, subject to review by the Regional Ecosystem Office. For some alternatives these areas are based heavily on the ecologically significant late-successional and old-growth stands identified by the Scientific Panel on Late-Successional Forest Ecosystems (Alternatives 1, 2, 3, 6, 8, and 10). For some alternatives, these areas are based on the Final Draft Northern Spotted Owl Recovery Plan (Alternatives 4, 5, and 7), and for Alternative 9 these areas are based heavily on Key Watersheds.

Managed Late-Successional Areas -- Managed Late-Successional Areas are similar to Late-Successional Reserves but are typically identified on the east side of the Cascade Range where regular and frequent fire was a natural part of the ecosystem. Certain silvicultural treatments and fire hazard reduction treatments would be allowed to help prevent complete

stand destruction from large catastrophic events such as high intensity, high severity fires or disease or insect epidemics.

Adaptive Management Areas -- Adaptive Management Areas occur only in Alternative 9. The objective for each of these areas is to develop and test new management approaches to integrate and achieve ecological and economic health as well as other social objectives. Each area has a different emphasis to its prescription, such as maximizing the amount of late-successional forests, improving riparian conditions through silvicultural treatments, and maintaining a predictable flow of harvestable timber and other forest products.

Administratively Withdrawn Areas - Administratively Withdrawn Areas are identified in current Forest and District Plans or draft plan preferred alternatives and include recreational and visual areas, back country, low site, nonforest, and other areas not scheduled for timber harvest. These allocations and related standards and guidelines apply where they are more restrictive or provide greater benefits to late-successional and old-growth related species than other land allocations of the alternatives.

Riparian Reserves - These provide an area along all streams, wetlands, ponds, lakes and unstable and potentially unstable areas where riparian-dependent resources receive primary emphasis. Riparian Reserves are important to the terrestrial ecosystem as well, serving, for example, as dispersal habitat for certain terrestrial species. For Alternative 7, riparian area management follows the standards and guidelines in current plans and draft plan preferred alternatives and no additional riparian protection is prescribed. For the other nine alternatives, Riparian Reserves apply along all bodies of water and generally include the active stream channel to the top of the inner gorge, to the outer edges of the 100-year floodplain, to the outer edges of riparian vegetation, wetlands less than 1 acre, the extent of unstable and potentially unstable areas, and for the following:

- Lakes, natural ponds, and fish-bearing streams - the area on each side of the stream equal to the height of two site-potential trees, or 300 feet slope distance, whichever is greater (this is the same for all alternatives);
- Permanently flowing nonfish-bearing streams - the area on each side of the stream equal to the height of one site-potential tree, or 150 feet slope distance, whichever is greater (one-half this for Alternative 8);
- Constructed ponds and reservoirs and wetlands greater than 1 acre - the area from the edge of the wetland or the maximum pool elevation to a distance equal to the height of one site-potential tree, or 150 feet slope distance, whichever is greater (this is the same for all alternatives);
- Seasonally flowing or intermittent streams:
 - for Alternatives 1, 4, and 9 - the area on each side of the stream to a distance equal to the height of one site-potential tree or 100 feet slope distance, whichever is greater;
 - for Alternatives 2, 3, 5, 6, and 10 - the area on each side of the stream to a

distance equal to one-half the height of one site-potential tree or 50 feet slope distance, whichever is greater; and

- for Alternative 8 - the area on each side of the stream to a distance equal to one-sixth the height of one site-potential tree or 25 feet slope distance, whichever is greater.

Matrix - The matrix consists of those federal lands outside the six designated areas listed above. Most scheduled timber harvest (that which contributes to probable sale quantity or PSQ) takes place in the matrix. The matrix includes nonforested areas and forested areas that are technically unsuitable for timber production and, therefore, do not contribute to PSQ. Many alternatives apply the 50-11-40 rule for management of the matrix. Each alternative also specifies the amount of green trees, snags, and down logs that will be left following management activities.

A summary and comparison of land allocations, including acres and standards and guidelines, is presented in Table ROD-1.

Table ROD-1. Summary and comparison of land allocations and standards and guidelines among alternatives.

	Alternative	1	2	3	4	5	6	7	8	9	10
Congress Res With	Million acres	7.321	7.321	7.321	7.321	7.321	7.321	7.321	7.321	7.321	7.321
Late-Successional Reserves	Million acres	11.402	8.951	7.359	8.066	6.376	7.501	5.423	7.501	7.431	7.501
	Timber harvest/salvage	None	Treatment of stands less than 50 years old. Very limited salvage	Same as Alternative 2	Treatment of stands and salvage per Northern Spotted Owl Recovery Plan	Same as Alternative 4	Same as Alternative 2	Same as Alternative 4	Treatment of stands in Murrelet Zone 1 up to 50 years. Other stands up to 180 years.	West - Treatment of less than 80 years old. East - Manage to reduce risk of catastrophic loss.	Same as Alternative 2
	Protection for sites occupied by marbled murrelets outside reserves	Yes	Yes	Yes	Yes	Yes	Yes	No ²	No ²	Yes	Yes
	Protection of SAT species closely associated with old growth	Yes	No	Yes	Yes	Yes	No	No	No	Yes	No
Managed Late-Successional Areas or Adaptive Management Areas (Alt. 9 only)	Million acres	0	0	1.700	0.238	0.381	0	0.381	0	1.522 (AMA) 0.102 (MLSA)	0
	Timber harvest/salvage	N/A	N/A	West - Long rotation. 50 percent retention East - Long rotation. or uneven-age management	Treatment of stands and salvage per Northern Spotted Owl Recovery Plan	Same as Alternative 4	N/A	Same as Alternative 4	N/A	Adaptive Management Areas and some Managed Late-Successional Areas	N/A
Administratively Withdrawn Areas	Million acres	1.080	1.509	1.499	1.652	2.067	1.828	2.282	1.828	1.477	1.828
Riparian Reserves	Million acres	1.880	2.164	2.134	2.896	2.674	2.513	0.622	1.503	2.628	2.513
	Widths ¹	2:1:1	2:1:1 in Tier I Key Watersheds, 2:1:1/2 other watersheds	Same as Alternative 2	Same as Alternative 1	Same as Alternative 2	Same as Alternative 2	Variable, usually no reserves on intermittent streams	2:1/2:1/4	Same as Alternative 1	Same as Alternative 2
Matrix	Million acres	2.773	4.511	4.443	4.284	5.637	5.293	8.428	6.303	3.975	5.293
	50-11-40	Yes	Yes	Yes	Yes	Yes	Yes	Natl. Forest-Yes BLM-modified	No	No	No
	Snags:logs:green trees per acre	2:2:6	2:2:6	Support 40% pop. West - 12, East - 2-10:4	Variable on National Forests. BLM - 2:2:6-9	Same as Alternative 4	2:2:6	Same as Alternative 4	Same as Alternative 4	Coastal areas WA/OR: 2:8-12:0 Other areas 2:8-12:15%	2:2:6

¹ Riparian Reserve Widths (e.g., 2:1:1), are expressed as multiples of the height of a maximum site-potential tree, measured on each side of fish-bearing streams, nonfish-bearing streams, and intermittent streams, respectively (see text)

² Not specifically required in the alternative, but currently required under the Endangered Species Act.

We have considered the 10 alternatives presented in the Final SEIS, as well as the no-action alternative required by 40 CFR 1502.14(d). Summary descriptions of these alternatives follow.

No-Action Alternative

For both BLM and the Forest Service, this alternative basically consists of management direction in place immediately before the release of the Interagency Scientific Committee's: *A Conservation Strategy for the Northern Spotted Owl*. As considered in the SEIS, the No-Action Alternative is the same as that described in the Environmental Impact Statements which this SEIS supplements, and is consistent with Council on Environmental Quality requirements to present "no change" from current management direction or level of management intensity. However, because of recent listings of the marbled murrelet and the northern spotted owl, concern over threatened fish stocks, and other recent information regarding the habitat for other late-successional forest related species, the No-Action Alternative is no longer implementable, nor does it meet the purpose and need for this SEIS. Further discussion of this and the rationale for not further considering the No-Action Alternative is included in Chapter 2 of the Final SEIS.

The Action Alternatives

Alternative 1

This alternative is designed to have the highest probability of meeting five biological criteria: (1) viability of northern spotted owls, (2) viability of marbled murrelets, (3) viability of fish species and stocks at risk, (4) viability of other species associated with old-growth forests and (5) maintenance of functional and interconnected late-successional forests on Federal lands. Essentially all old-growth forests would be protected. It would maximize protection of forests adjacent to streams to protect fish; and to permit spotted owl dispersal, some forest cover would be retained in areas where timber harvest is allowed.

Alternative 2

This alternative is designed to protect the ecologically significant old-growth forests and additional areas considered necessary for northern spotted owl population viability. Management of intervening lands would be focused on providing successful owl dispersal. Limited salvage and silvicultural practices would be allowed within the Late-Successional Reserves, a high level of protection for forests adjacent to streams is prescribed, and, to permit owl dispersal, some forest cover would be retained in areas where timber harvest is allowed.

Alternative 3

This alternative is designed to protect ecologically significant old-growth forests, while at the same time allowing for the production of forest products from some late-successional forests. Land allocations and management prescriptions would vary by physiographic province; the drier provinces would be treated differently from the other physiographic provinces. A high level of protection for forests adjacent to streams is prescribed and, to permit owl dispersal, some forest cover would be retained in areas where timber harvest is allowed.

Alternative 4

This alternative is designed to protect the most ecologically significant late-successional forests, significant late-successional forests near the coast, and additional areas identified to protect northern spotted owls. It would maximize protection of forests adjacent to streams to protect fish, provide for endemic species protection, and provide for the retention of some forest cover in areas where timber harvest is allowed.

Alternative 5

This alternative is designed to implement the mitigation strategy recommended in the Scientific Analysis Team Report. It adds a high level of riparian protection, marbled murrelet protection and endemic species protection beyond that described in the Final Draft Spotted Owl Recovery Plan.

Alternative 6

This alternative is designed to protect the most ecologically significant late-successional forests, significant late-successional forests near the coast, and additional areas for northern spotted owls. A high level of protection for forests adjacent to streams is prescribed and, to permit owl dispersal, some forest cover would be retained in areas where timber harvest is allowed.

Alternative 7

This alternative is designed to reflect the most likely management direction that would have been implemented if the Forest Service and BLM had continued their present land and resource management planning processes as reflected in current plans and draft plan preferred alternatives, and if they had adopted the elements of the *Final Draft Recovery Plan for the Northern Spotted Owl*. It provides the lowest level of riparian protection of the 10 action alternatives and provides for some retention of forest cover where timber harvest is allowed.

Alternative 8

This alternative is designed to protect the most ecologically significant late-successional forests and significant late-successional forests near the coast. It provides for a minimum level of protection of forests near streams to protect fish. Retention of forest cover in areas where timber harvest is allowed would be based on current plans and draft plan preferred alternatives.

Alternative 9

This alternative blends a number of elements to develop a strategy to protect old-growth forests. Old-growth and late-successional forests would be protected, with an emphasis toward Key Watersheds. It would protect endemic species and would maximize protection of forests adjacent to streams to protect fish. It contains additional survey and manage standards and guidelines for at-risk species. Adaptive Management Areas would be designated to encourage the development and testing of technical and social approaches to achieving desired ecological, economic, and other social objectives. Alternative 9 is the preferred alternative in the SEIS.

Alternative 10

This alternative is designed to protect the ecologically significant late-successional forests, significant late-successional forests near the coast, and some additional areas for northern

spotted owls. A high level of protection for forests adjacent to streams is prescribed. This alternative is identical to Alternative 6 except that it provides for retention of less forest cover where timber harvest is allowed.

Alternatives Considered but Eliminated from Detailed Study

The underlying need of providing for late-successional and old-growth forest habitat and minimizing adverse economic effects substantially limited the range of reasonable alternatives available for analysis. Within this focus, the Forest Ecosystem Management Assessment Team (Assessment Team) considered all recent proposed and published strategies for management of northern spotted owl habitat or management of late-successional and old-growth forest ecosystems as potential alternatives. Forty-eight previously developed alternatives were considered, along with five hybrid alternatives containing mixtures of elements from existing plans, and an alternative with long timber harvest rotation (300 to 350 years) with no Late-Successional Reserves.

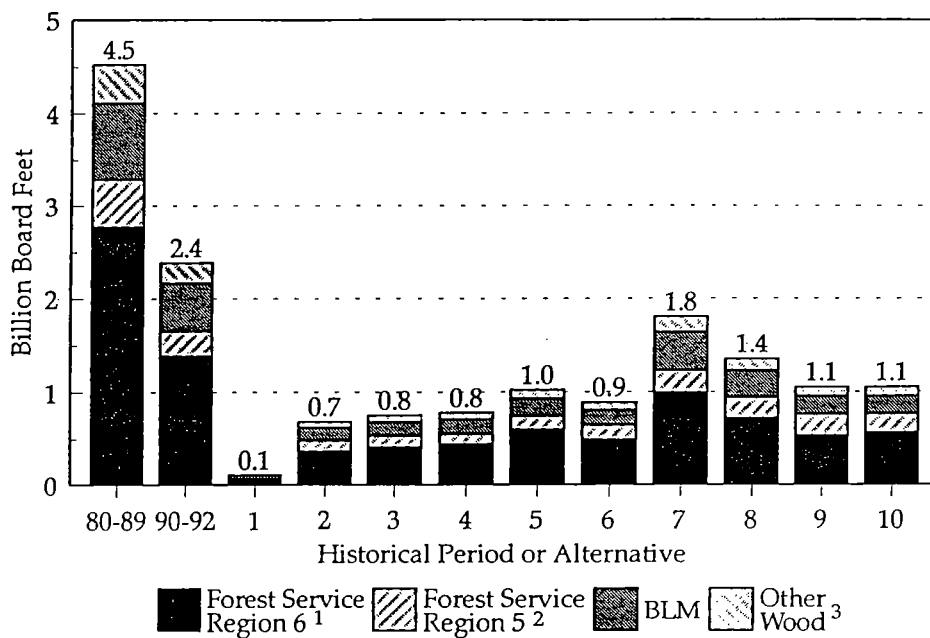
After considering this range of 54 alternatives, and examining them in two selection processes, 46 were not considered for further refined analysis. Of the 8 identified for further analysis, 1 was dropped because it was similar to another alternative, and three others were added, resulting in the 10 alternatives studied in detail in this SEIS. This process and a description of the alternatives considered is included in Appendix A of the SEIS.

During the public comment period on the Draft SEIS, a number of ideas for alternatives were suggested. Some of these were already included in parts of the action alternatives. Other commenters suggested additional alternatives based on the "constant change" theory of ecology. The Final SEIS acknowledges that there is controversy in the scientific community regarding theories of ecosystem process and function. Alternatives 2 through 10 in the Final SEIS are in fact a mix of the "constant change" and "steady state" theories. All alternatives proposed by the public were considered. A summary of each and the reasons for not considering them in detail are described in Appendix F of the Final SEIS.

Comparison of Alternatives

Management of the forests under the standards and guidelines and land allocations for each alternative will result in a level of sustainable timber harvest. The estimate of that annual level for the first decade is expressed as the Probable Sale Quantity (PSQ). The PSQ levels estimated for each of the 10 alternatives in the Final SEIS are shown in Figure ROD-1. Based on these estimated PSQ levels, estimates of the numbers of jobs that could be available in the timber industry were also projected. These estimates for the 10 alternatives are shown by state and total in Table ROD-2.

Figure ROD-1. First decade probable average timber sale levels (PSQ) by historical period and alternative.



- 1 Region 6 = Pacific Northwest Region
 2 Region 5 = Pacific Southwest Region
 3 Includes cull, submerchantable material, firewood and other products.

Table ROD-2. Historical and projected employment (in thousands of jobs) in the timber industry in the next decade, by state and alternative, within the range of the northern spotted owl. This includes self-employed individuals in the solid wood products and pulp and paper sectors. Wage and salary employment is approximately 7.5 percent less than total employment.

State	1990 actual	1992 (est.)	Alt. 1	Alt. 2	Alt. 3	Alt. 4	Alt. 5	Alt. 6	Alt. 7	Alt. 8	Alt. 9	Alt. 10
WA	57.9	51.3	48.1	48.7	48.7	48.7	48.7	48.8	48.7	49.0	48.4	48.8
OR	73.1	62.8	51.2	54.7	54.9	55.4	56.6	54.4	61.3	58.2	56.4	56.4
CA	13.9	11.3	10.2	10.6	10.7	10.6	10.7	10.8	10.8	10.9	11.1	10.9
Total	144.9	125.4	109.5	114.0	114.3	114.7	116.0	114.0	120.8	118.1	115.9	116.1

Management under Alternatives 7, 8, and the No-Action Alternative would provide higher levels of timber supply, management under these alternatives would not provide adequate assurance that the late-successional and old-growth forest ecosystem would be maintained and restored, and would not provide adequate assurance that the riparian habitat essential for many aquatic and terrestrial species would be maintained and restored. Alternatives 1 through 6, and 10 would provide less or equal timber supply than Alternative 9, and in most instances, would provide relatively higher levels of assurance of the continuation of the diversity of plant and animal communities in the planning area, as measured by the viability assessments of the various species which are dependent or associated with late-successional and old-growth forest habitat conditions.

However, Alternative 9 was assessed as the alternative with the highest likelihood of maintaining the ecological processes and function of late-successional and old-growth forest ecosystems in the long term, while also providing a high level of assurance of the continued diversity of the plant and animal communities in the planning area. This was due primarily to the opportunities this alternative provides to increase knowledge about ecosystem function and management in the Adaptive Management Areas; because the risk of large-scale, stand-replacing fires is addressed; and because it provides for restoration silviculture without which late-successional conditions would be retarded in development. This opportunity to increase our knowledge to provide for the sustained development and use of forest resources while maintaining and restoring the process and function of the forest ecosystem is vitally important given the levels of uncertainty and complexity needs of ecosystem management.

Because of the degree to which late-successional and old-growth habitat has been reduced by past management, it is important to attempt to restore as many of the elements of that habitat as rapidly as possible. Rather than wait for more perfect knowledge on the methods for restoring the functions of these ecosystems, we should use the best knowledge presently available to begin restoration now and use adaptive management to incorporate new information as it becomes available. Alternative 9 incorporates restoration silviculture and, among the alternatives, most actively pursues the objectives of adaptive management.

The impacts to the many species and groups of species of fish, wildlife and plants in the planning area varies among the alternatives and is extremely complex, and therefore difficult to summarize in this Record of Decision. The impacts are described in detail in the Final SEIS. Alternative 9 meets the needs of the species influenced by federal land management activities, assuring the viability of vertebrate species and reducing the risk of extirpation of invertebrate and plant species.

Alternative 9, along with many of the alternatives, establishes management direction for a system of Late-Successional Reserves and Managed Late-Successional Areas. Like other alternatives, it has an Aquatic Conservation Strategy that prescribes Riparian Reserves around streams, wetlands, other waterbodies, and unstable areas; Key Watersheds; and provisions for watershed analysis and watershed restoration. Like the other alternatives, it adds this management direction to existing land management direction and continues that direction where it is more restrictive or beneficial to late-successional forests. Alternative 9 is unique among the alternatives in that it identifies 10 Adaptive Management Areas designed to encourage the development and testing of scientific, technical, and social approaches to achieve ecological, economic, and other social objectives.

Like other alternatives, Alternative 9 is predicated on an on-going adaptive management process across the planning area. Adaptive management will be a continuing process of monitoring, research, planning, project implementation, and evaluation to adapt management in accordance with the most recent knowledge of conditions and relationships within the forest ecosystem. Adaptive management will be conducted at all scales, and will be coordinated through the Regional Ecosystem Office.

As discussed later in this Record of Decision, Alternative 9 meets the requirements of the National Forest Management Act to provide for a diversity of plant and animal communities, and the requirements of the Endangered Species Act for the protection and recovery of threatened species. It also meets the requirements of laws directing the management of these forests for sustainable multiple uses, including the National Forest Management Act, the Federal Land Policy and Management Act, and the Oregon and California Lands Act. It also meets the requirements of acts requiring protection of elements of the environment, and requirements for coordinated planning and consultation.

Mitigation

Mitigation as defined by the CEQ Regulations at 40 CFR 1508.20 includes a wide variety of measures taken to improve conditions for a potentially impacted landscape, species, community, or other part of the environment. Mitigation measures include: avoiding the impact altogether, minimizing the impact by limits on implementation, rectifying the impact by restoration or repair, reducing or eliminating the impact by preservation or maintenance, and finally, compensating for the impact by providing substitutes.

Almost all of the components of the Forest Ecosystem Plan are, in a very real sense, mitigation measures. Singularly and collectively they avoid, but also minimize, rectify, reduce, or eliminate potentially adverse environmental impacts of forest management. The standards and guidelines and land allocations in the selected alternative are mitigation measures incorporated into the Forest Ecosystem Plan.

All practicable means to avoid or minimize environmental harm have been adopted in the Forest Ecosystem Plan. The following describes possible mitigation measures that were identified but not adopted as part of the Forest Ecosystem Plan. While many of these mitigation measures would provide benefits for other species and species groups, they are identified with the species group for which they were originally intended.

The possible mitigation measures that could benefit bryophytes include regulating commercial moss collecting to prevent overharvest, managing additional forest land along the coast for old-growth Sitka spruce, protecting cold springs as important resources for biological diversity, maintaining water quality at Waldo Lake (to protect the population of *Marsupella emarginata* var. *aquatica*), leaving windfalls in place to provide structurally diverse habitat for *Schistostega pennate*, and leaving windfirm buffers of green retention trees along fog-drenched ridges to maintain biological diversity.

The possible mitigation measures that could benefit fungi include identifying additional stands for development into old-growth forest in areas where late-successional or old-growth

stands are limited; providing a mosaic of forest, age-class distributions, successional stages and habitat types in the matrix; and determining appropriate levels of sustained harvest for commercial species of fungi.

The possible mitigation measures that could benefit lichens include designating Botanical Special Interest Areas or Areas of Critical Environmental Concern to protect habitat and key populations of rare and local species; developing management plans to address rare lichen species to provide biological and habitat information, management direction, and recommendations for selecting and monitoring key populations; and retaining trees on ridgelines (which would mimic the retention patterns of natural fire) to optimize dispersal of some lichen species.

The possible mitigation measures that could benefit vascular plants include designating Botanical Special Interest Areas and Areas of Critical Environmental Concern to protect habitat and key populations of rare and local populations (e.g., *Aster vialis*, *Bensoniella oregana*, *Cimicifuga elata*, *Corydalis aquae-gelidae*, *Frasera umpquaensis*, *Poa laxiflora*, and *Streptopus streptopoides*); develop, update, and implement conservation strategies for species, species groups, and habitats to reduce risk for many sensitive species; implementing well-designed monitoring studies for species with limited distribution and occurrence; conducting basic inventories and studies to determine sustainable yields of special forest products to avoid overharvest, and initiating a consistent interagency inventory and classification of riparian plant associations.

The possible mitigation measure that could benefit arthropods is to eliminate burning as a means of site preparation after timber harvest to avoid negative impacts to arthropods that are associated with coarse woody debris, and the litter and soil layers.

The possible mitigation measures that could benefit fish are to remove all lands in Tier 1 Key Watersheds from programmed timber harvest, to build no new roads in Tier 1 Key Watersheds, and to remove inventoried roadless areas from the programmed timber harvest.

The possible mitigation measures that could benefit birds are to adopt more restrictive guidelines for salvage of dead trees in the eastern Cascade Range for the black-backed, white-headed, and Williamson's woodpeckers. For northern spotted owls, possible mitigation measures are to provide Managed Late-Successional Areas corresponding to the owls' home range for known and future sites in the Oregon and California Klamath Provinces and the Oregon and Washington Eastern Cascade Provinces, or to manage known and future spotted owl activity centers in the matrix as Reserved Pair Areas in all provinces. For marbled murrelets, possible mitigation measures are to retain all suitable habitat contiguous with occupied sites that are protected in the matrix, regardless of distance from nest site or to retain all old-growth habitat within Marbled Murrelet Zone 1.

The possible mitigation measure that could benefit bats is to gate cave entrances in such a way that air flow patterns are maintained, people are excluded, and bats can freely enter and exit.

The primary reason the above possible mitigation measures were identified but not adopted in this Record of Decision is that for most species the adopted standards and guidelines in

the selected alternative make the measure redundant in accomplishing the measure's objective. In some cases, the possible mitigation measures were found to be too costly in relation to the uncertain benefits of the measure, the untested or ineffective nature of the measure and the adverse effect of the measure on other resources or programs

Environmentally Preferable Alternatives

The Council on Environmental Quality Regulations require that the Record of Decision specify "the alternative or alternatives which were considered to be environmentally preferable." The Council's "Forty Questions" document clarifies that "The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources."

Section 101(a) of the National Environmental Policy Act states, "The Congress . . . recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government . . . to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Alternative 1 and Alternative 9 are the environmentally preferable alternatives.

Alternative 1 is environmentally preferable if judged against the "Forty Questions" suggestion that, "ordinarily this means the alternative that causes the least damage to the biological and physical environment." Alternative 1 best meets this criterion because it excludes management activity in all old-growth forest stands, preserving them from human management actions.

Alternative 9 is environmentally preferable if responding to the policy as stated in Section 101 of NEPA. Alternative 9 both protects and enhances those old-growth and late-successional forests in an extensive network of reserves. Riparian areas receive the highest level of protection, and endemic species receive special management where they occur. Matrix lands and some Adaptive Management Areas provide sustainable harvests of forest products in balance with substantial protection of environmental quality. Thus, of the 10 alternatives, Alternative 9 is the alternative that best provides that "productive harmony" for the maintenance and restoration of environmental quality in the forests in the planning area while also meeting the social and economic needs of present and future generations.

The Selected Alternative

As indicated in the Final SEIS, the proposed action responds to dual needs: the need for forest habitat and the need for forest products.

The need for forest habitat is the need for a healthy forest ecosystem with habitat that will support populations of native species (particularly those associated with late-successional and

old-growth forests) and includes protection for riparian areas and waters. This need was reflected by President Clinton in these words at the Forest Conference on April 2, 1993:

[A]s we craft a plan, we need to protect the long-term health of our forests, our wildlife, and our waterways. . . . [W]e hold them in trust for future generations.

The need for forest products from forest ecosystems is the need for a sustainable supply of timber and other forest products that will help maintain the stability of local and regional economies on a predictable and long-term basis. This need was reflected by President Clinton in these words at the Forest Conference:

[W]e must never forget the human and the economic dimensions of these problems. Where sound management policies can preserve the health of forest lands, [timber] sales should go forward.

[T]he plan should produce a predictable and sustainable level of timber sales and nontimber resources that will not degrade or destroy the environment.

These dual needs are consistent with the congressionally directed purposes as expressed in a variety of laws which direct management of the National Forests and the lands administered by the Bureau of Land Management. A long history of controversy, scientific evidence, and the environmental analysis in the Final SEIS, all indicate that neither of these needs can be singly met without significantly impairing our ability to meet the other. Thus, the choice before us is one of selecting the management direction that best balances our potential to meet, as best we can, both of these needs.

The congressionally directed purposes for managing the National Forests and the Bureau of Land Management-administered lands include both conserving the ecosystems upon which endangered species and threatened species depend, and at the same time providing raw materials and other resources which are needed to sustain the health and economic well being of the people of this country. To balance these sometimes conflicting purposes and conserve an ecosystem that crosses the administrative boundaries of both the major federal land-managing agencies, the Forest Service and the Bureau of Land Management need to adopt the alternative that will both maintain and restore the late-successional and old-growth forest ecosystem, and provide a predictable and sustainable supply of timber, recreational opportunities, and other resources at the highest level possible. Alternative 9 best meets these criteria.

We have reviewed the 10 alternatives in the Final SEIS, their predicted environmental, economic and social consequences, and the risks and safeguards inherent in them. The Forest Ecosystem Plan, analyzed as Alternative 9 in the Final SEIS, is the best alternative for providing the highest sustainable level of human use of the forest resource while still meeting the need to maintain and restore the late-successional and old-growth forest ecosystem. We therefore select the Forest Ecosystem Plan as the management direction that best responds to the legal mandates we must meet.

Findings

Court Injunctions

This decision will satisfy the court injunctions which have largely prohibited the Forest Service and the Bureau of Land Management from offering new timber sales within the range of the northern spotted owl. The Final SEIS considers new information on the effects of logging on the northern spotted owl which the U.S. District Court (Oregon) in *Portland Audubon Society v. Lujan* ordered the BLM to consider in a supplemental EIS. The BLM has also now completed through this planning process the consultation with the Fish and Wildlife Service on its spotted owl conservation strategy which the U.S. District Court (Oregon) ordered it to do in *Lane County Audubon Society v. Jamison*. The Forest Service in the Final SEIS considered impacts on other old-growth dependent species, the cumulative effects of management decisions by the BLM, and new information on spotted owls as ordered by the U.S. District Court (W.Wash.) in *Seattle Audubon Society v. Moseley*.

Legal and Regulatory Compliance

National Forest Management Act

The National Forest Management Act (NFMA) requires that National Forest System lands "provide for a 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, and . . . where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the [Forest] plan" (16 U.S.C. 1604). Forest Service regulations issued under NFMA require that "fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired nonnative vertebrate species in the planning area" (36 CFR 219.19).

Whether the actions in this Record of Decision provide for a suitable diversity of plant and animal communities is measured by the continued presence of species native to the specific land area. Whether or not species will continue, in turn is measured by their viability. If all species native to National Forest System lands and now present on these lands were predicted as likely to remain there into the foreseeable future, and if those species were predicted as likely to remain viable, we could safely conclude that the actions decided in this Record of Decision for the National Forest System provide for the diversity of plant and animal communities required by NFMA and the viability required by the regulations.

With the knowledge available today, it is not possible, nor is it reasonable to expect to be able, to predict with certainty whether all species on federal lands will remain on federal lands and whether all species will remain viable. Such knowledge is simply unavailable. There are species for which almost no scientific information exists and the costs of obtaining it -- in terms of time and money -- is exorbitant. The selected alternative has incorporated so many measures to provide for the viability of all known species and reduce their risk of extirpation, however, that this information, if known, would likely not influence the decision to select this alternative.

The credible scientific evidence that is available has been consulted and referenced, and the predictable results of this strategy relative to future viability risks have been gathered and presented in the Final SEIS and its appendices. The evidence takes an ecosystem approach, and shows that the actions decided in this Record of Decision will maintain and, over time, enlarge the late-successional and old-growth forest ecosystem, which will in turn support a diversity of plant and animal communities as required by NFMA. Thus, we find that the actions described in the Forest Ecosystem Plan that is part of this Record of Decision will provide for the diversity required by NFMA, and the viability required by the regulations, for reasons including those presented below.

The Forest Ecosystem Plan will manage habitat on the National Forests and the BLM Districts within the planning area to maintain viable populations of vertebrates there for the life of the plan, and result in a basis for viability in the long term. The Forest Ecosystem Plan will result in changes in the environment. Where it is allowed, the rate of change of old-growth and late-successional forests to earlier successional stages will happen at a sufficiently slow rate that monitoring and additional research will disclose unforeseen threats to viability in time to avoid them.

Federal Land Policy and Management Act

The principles of multiple use and sustained yield have been used and observed in the development of the Forest Ecosystem Plan. This is evident by the designation of reserves where benefits to late-successional forest related species and uses are maximized, and the designation of matrix lands where the economic and social benefits of timber harvest are maximized on a sustainable basis. In addition, the designation of some Adaptive Management Areas allows the development of innovative human uses of the forests that are compatible with wildlife habitat needs. The opportunity for utilization of resources from the lands under the standards and guidelines of the Forest Ecosystem Plan is in accordance with the principles of sustained yield (see 43 U.S.C. Sec. 1712(c)(1)).

The lands included in the reserves under the selected alternative constrain, but do not exclude timber use. Thinning or other silvicultural treatments, inside Late-Successional Reserves are subject to review by the Regional Ecosystem Office to ensure that the treatments are beneficial to the creation of late-successional forest conditions. Because this use is not totally eliminated, this management decision will not be subject to the reporting requirement in 43 U.S.C. Sec. 1712(e)(2).

Oregon and California Lands Act

The legal mandate for management of Oregon and California (O&C) and Coos Bay Wagon Road lands is found in 43 U.S.C. Sec. 1181a. Under that statute, the primary use of these lands is for timber production on a sustained yield basis. Congress expected that managing these lands on a sustained yield basis would provide a permanent source of timber supply, protect watersheds, regulate stream flow, and contribute to the economic stability of local communities and industries. In recent years, scientists have become concerned that the long-term health of the forest may be adversely affected by the alterations in the forest ecosystem caused by high intensity forestry techniques.

A primary purpose of managing for a sustainable ecosystem under the Forest Ecosystem Plan adopted by this decision is to provide for the long-term health of the forest. Timber production in the long term would also be adversely affected if the forest ecosystem health as a whole were to deteriorate. The Secretary of the Interior has discretion to determine how to manage the forest on a sustained-yield basis that provides for permanency of timber production over a long-term period. The Secretary of the Interior must necessarily make judgments, based on as much information as possible, about what kinds of management will lead to permanent forest production that satisfies the principle of sustained yield. The management designed for Late-Successional Reserves does not exclude all timber production as a purpose for those lands. The goal of the Late-Successional Reserves is the creation of old-growth forest conditions which will eventually result in a fully functional old-growth forest ecosystem.

Management of O&C lands must also be managed in accordance with other environmental laws such as the Endangered Species Act (ESA) and the Clean Water Act. Section 7(a)(1) of the Endangered Species Act sets a policy that requires federal agencies to exercise their authorities in order to further the purposes of the ESA. These include protection of the ecosystems upon which listed species depend, and prevention of the necessity to list additional species as threatened or endangered. The management direction and land allocations of the selected alternative constitute the federal contribution to the recovery of the northern spotted owl. A recovery plan for the marbled murrelet is currently being prepared. The selected alternative's Late-Successional Reserves and Riparian Reserves are key components in the development of recovery plans to achieve the conservation and recovery of those species. These reserves are also needed to assist in avoiding the need to list additional species under the ESA. Because managing for the goal of sustaining an old-growth forest ecosystem is within the authority of BLM and the Forest Service under the O&C Lands Act, the agencies may exercise that authority in furthering the ESA policy by implementing this Forest Ecosystem Plan.

Protection of watersheds and regulating streamflow are explicit purposes of forest production under the O&C Lands Act. Riparian Reserves, including those established on O&C lands by this decision, are designed to restore and maintain aquatic ecosystem functions. Together, with other components of the Aquatic Conservation Strategy, Riparian Reserves will provide substantial watershed protection benefits. Riparian Reserves will also help attain and maintain water quality standards, a fundamental aspect of watershed protection. Both Riparian Reserves and Late-Successional Reserves will help regulate streamflows, thus moderating peak streamflows and attendant adverse impacts to watersheds.

Endangered Species Act

Consultation on the preferred alternative in the Final SEIS was conducted with the Fish and Wildlife Service and the National Marine Fisheries Service in accordance with Section 7 of the Endangered Species Act. The biological opinion of the Fish and Wildlife Service determined that implementation of the preferred alternative would not jeopardize the continued existence or adversely modify the critical habitat of any species listed as threatened or endangered. The National Marine Fisheries Service has also concurred in the determination that the preferred alternative would not affect any of the listed anadromous fish species present in the planning area. See Appendix G of the Final SEIS for more information.

The Forest Ecosystem Plan does not lead to the extirpation of species within the planning area. It reflects the government's standing policy to aid in the recovery of listed species, and to not, through its prescriptions, cause any species to become listed under the Endangered Species Act. The agencies have taken all measures required to insure that a violation of the Endangered Species Act will not occur.

Coastal Zone Management Act

Implementation of the preferred alternative is expected to meet or exceed the federal and state standards and policies adopted in federally approved, state coastal management programs and coastal nonpoint pollution control programs. Appropriate consultation will occur on subsequent plans and activities to ensure consistency under the Coastal Zone Management Act and Coastal Zone Act Reauthorization Amendments. In addition to the existing planning processes under Forest Service and BLM planning regulations, and NEPA analysis for planning and site-specific decisions, the preferred alternative includes provisions to ensure that subsequent federal actions will be consistent with statewide planning goals and local comprehensive plans. We make this finding based on the selected alternative's implementation framework and the commitment it provides to ensure appropriate consultation during subsequent planning and implementation.

Executive Order 11990 - Protection of Wetlands

The selected alternative complies with Executive Order 11990 by incorporating procedures and measures for identification, assessment and protection of wetlands. All practicable measures to minimize harm to wetlands will be implemented. The primary measures that ensure compliance include the designation of Riparian Reserves and Key Watersheds, the watershed analysis process, and watershed restoration. These measures ensure that wetlands on lands administered by the Forest Service and BLM within the range of the northern spotted owl will be maintained as natural systems providing public health, safety, welfare, and other public interest values.

Clean Air Act

At the scale of a programmatic plan such as this, the overall level of activities proposed under the Forest Ecosystem Plan are not anticipated to degrade air quality or violate State Implementation Plans. This finding is based on information presented in the Final SEIS regarding the projected reduction in estimated aggregated annual emissions from activities under the preferred alternative compared to the 1985 to 1992 baseline. The large geographic scope and programmatic nature of the SEIS precluded quantification of impacts, a necessary component of conformity determinations under the Clean Air Act. Conformity determinations and more detailed air quality impact analyses will be made at subsequent levels of planning and analysis where emissions can be more accurately quantified and reasonably forecasted, and local impacts can be assessed.

Clean Water Act

Full implementation of the preferred alternative is expected to maintain and improve water

quality. We base this finding on the extensive water quality protection provided by the preferred alternative's comprehensive watershed-based approach. The system of Late-Successional Reserves and Riparian Reserves, watershed restoration, and the other components of the preferred alternative's Aquatic Conservation Strategy provide a sound framework for meeting Clean Water Act requirements. The system of Riparian Reserves provide protection zones around streams, wetlands, and waterbodies minimizing the potential for sediment, temperature, and dissolved oxygen problems. The Riparian Reserves will contribute to protecting or restoring the physical, chemical, and biological integrity of waters of the United States, the major goal of the Clean Water Act. Analysis to support subsequent levels of planning and site-specific projects and implementation of monitoring and adaptive management will be required to demonstrate compliance with the Clean Water Act and state water quality standards.

California Agreement on Biological Diversity

Implementation of the Forest Ecosystem Plan is consistent with California's coordinated strategy to conserve biological diversity as embodied in the California Agreement on Biological Diversity. The strategy involves both the establishment of a process for improving communication and collaboration between federal, state and local governments in order to better conserve biodiversity and sustain local economies, and a formal commitment to transition from single species protection to ecosystem management planning through initiation of several bioregional planning efforts currently being conducted across the state.

Implementation

Interagency Coordination

The implementation of this decision calls for a high level of coordination and cooperation among agencies. Coordinated and consistent implementation of the standards and guidelines and management direction established by the Forest Ecosystem Plan will be accomplished primarily through the framework of interagency groups established by the Memorandum of Understanding for Forest Ecosystem Management signed by the Director of the White House Office on Environmental policy, the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Under Secretary of Commerce for Oceans and Atmosphere. These interagency groups include the Interagency Steering Committee, Regional Interagency Executive Committee, and Regional Ecosystem Office. A detailed description of these groups and their role in implementation of this decision is included in Section E, Implementation, of the attached Forest Ecosystem Plan.

Planning

Ecological functions do not respect administrative or political boundaries and assessments of ecosystem issues may require the use of boundaries that do not coincide with political or administrative boundaries. At the same time, current statutes, regulations and administrative responsibilities governing federal land management agencies must recognize and are based

upon political and administrative boundaries. As experience is gained in ecosystem management, statutes and regulations may be changed to provide for different decision points. Until any limiting statutes and regulations are changed, province-level "plans" or considerations will consist of analysis and coordination to help interpret or amend existing plans.

The term "planning" is often used to include assessments, analysis, or other processes that are related to, but distinct from the planning decision-making process defined by laws and regulations. Decisions on standards and guidelines and land allocations will be adopted using the planning structure of existing regulations, which provide for three levels of plans for the Forest Service (Regional Guides, Forest Plans and project plans) and two levels of plans for the BLM (Resource Management Plans and activity plans). Decisions to change land allocations, or standards and guidelines will be made only through the adoption, revision, or amendment of these documents following appropriate public participation, NEPA procedures, consultation, and coordination with the Regional Interagency Executive Committee.

The responsibility for implementing the decision made in this Record of Decision rests with the managers of the Forest Service and BLM units in the planning area.

Watershed Analysis

Watershed analysis is incorporated as part of this decision. It is one of the principal analyses that will be used to base decisions on meeting the ecosystem management objectives set forth here. It will be an analytical process, not a decision-making process. It will serve as the basis for developing project-specific proposals, and monitoring and restoration needs for a watershed. The information from the watershed analyses will contribute to decision making at all levels. Project-specific NEPA planning will use information developed from watershed analysis. For example, if watershed analysis shows that restoring certain resources within a watershed could contribute to achieving landscape or ecosystem management objectives, then subsequent decisions will need to address that information.

Consultation and Coordination

Future consultation under the Endangered Species Act will emphasize an integrated ecosystem approach. This will include involving the Fish and Wildlife Service and the National Marine Fisheries Service when the land management agencies begin to develop their plans for a particular area so their views can be made known. Actions proposed to implement this plan will undergo consultation, either formal or informal, as appropriate. Consultation for the northern spotted owl is not required for activities consistent with the standards and guidelines of this plan if those activities would not result in incidental take.

Concurrent coordination with the Environmental Protection Agency on water quality standards and beneficial use requirements of the Clean Water Act will minimize planning and project impacts.

The management direction of this decision provides a higher level of protection for American

Indian trust resources than the plans that it amends, and does not impair or restrict the rights of various tribes. Future analysis and planning efforts to implement the Forest Ecosystem Plan on lands administered by the BLM and Forest Service will comply with existing policies and laws relating to American Indian off-reservation trust resources. The plans or analyses will identify Indian trust resources that would be affected, and identify potential conflicts between proposed federal actions and treaty rights or tribal plans and policies. Consultation on a government-to-government basis will be conducted early in the planning process with any effected tribes. Conflicts will be resolved consistent with the Federal Government's trust responsibilities.

Fiscal Year 1994 Watershed Restoration Program

Congress has allocated \$27 million in watershed restoration funding for fiscal year 1994. Some activities under this program will not immediately conform fully with this plan because of the time needed to completely implement all processes, inventories, and analyses. Projects implemented under this program will have had a "preliminary watershed assessment" completed and considered, instead of the full analysis envisioned by the standards and guidelines in this plan. The preliminary watershed assessment will be limited to addressing restoration needs, and will also serve as a risk assessment. The assessment must show that benefits will outweigh any risks of proceeding with the project. This exception and the delay in implementation is consistent with the analysis of effects in the Final SEIS.

Monitoring

This decision includes the adoption of the monitoring and evaluation plan contained in the Forest Ecosystem Plan. The implementation of the selected alternative will be monitored to ensure that management actions are meeting the objectives of the prescribed standards and guidelines and that they comply with applicable laws and policy. Findings obtained through monitoring, together with research and other new information, will provide a basis for adaptive management changes to the plan. The monitoring program also will not remain static. The monitoring plan will be periodically evaluated to ascertain whether the monitoring questions and standards remain relevant, and adjusted as appropriate.

Under current Forest Service and BLM plans, resources, activities, or effects are monitored and will continue to be monitored under the Forest Ecosystem Plan. The elements monitored in the current plans include soil, water, air, vegetation, Wild and Scenic Rivers, visual resources, cultural resources, lands, minerals, range, wildlife, fisheries, timber, and special management areas such as Areas of Critical Environmental Concern and Research Natural Areas. Included under these broad categories are species listed under the Endangered Species Act, and activities subject to the Clean Water Act, Clean Air Act and other laws, regulations and policy. The various aspects of these current plans will remain in effect, although they will be revised as appropriate to reflect the Forest Ecosystem Plan. The results of monitoring and associated evaluations will continue to be shared with the public.

Authority to Amend or Modify the Forest Ecosystem Plan

This decision amends current Forest and District Plans as described in this Record of

Decision. Changes or adjustments to decisions made in this Record of Decision, other than minor corrections and clarifications, may be made through amendments to those current plans or development of new plans. The authority to amend or modify the current Forest and District Plans or create new plans remains with the Forest Service Regional Forester or BLM State Director. Amendments of Forest or District Plans that would modify the standards and guidelines or land use allocations established by this Record of Decision are coordinated through the Regional Interagency Executive Committee established by the Memorandum of Understanding for Forest Ecosystem Management (see Appendix E of the Final SEIS). Although decisions concerning implementation or modification of the Forest Ecosystem Plan are subject to review by these interagency groups, the Memorandum of Understanding for Forest Ecosystem Management does not substitute or alter the line of authority of individual agencies.

Implementation Schedules and Budgets

Subsequent administrative activities affecting the lands covered by this decision, including budget proposals, shall be based on this plan in combination with current plans, needs, and capabilities. Forest Supervisors and District Managers may change existing proposed project implementation schedules to reflect the direction in this decision. Such schedule changes shall not be considered significant amendments and will not require the preparation of an environmental impact statement or environmental assessment.

Public Involvement

Scoping

Scoping for this SEIS focused on the management of late-successional and old-growth forests on federal lands. President Clinton's Forest Conference served as a focal point to discuss the issues surrounding management of late-successional and old-growth forests on federal lands within the range of the northern spotted owl. At the conclusion of that conference, he directed the members of his Cabinet to prepare a plan and enunciated five principles to guide the formulation of that plan. Those five principles formed the basis for the underlying need and purposes of the SEIS.

Following the Forest Conference, representatives of the Clinton administration held meetings with interested parties to solicit their ideas. In addition, the Forest Ecosystem Management Assessment Team received and considered numerous submissions from interested groups and members of the public. The Forest Conference and the subsequent meetings and submissions served to confirm and specify the scope of the issues, potential effects and appropriate analysis.

Moreover, the issues surrounding the management of late-successional and old-growth forest ecosystems have been before the public and discussed for a number of years. Congress has held several hearings on these issues. A report entitled *Alternatives for Management of Late-Successional Forests of the Pacific Northwest* was prepared at the request of the Agriculture Committee and the Merchant Marine and Fisheries Committee of the U.S. House of

Representatives in October 1991.

The Forest Service has completed Forest Plans for most of the National Forests within the range of the northern spotted owl, and has prepared Draft Forest Plans for the remaining Forests. Additionally, scoping for these Forest Plans and the *Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide* included issues regarding management of late-successional and old-growth forests, and served to focus the public on the issues. The Forest Service more recently received extensive public comment on the *Final Environmental Impact Statement on Management for the Northern Spotted Owl in the National Forests*.

The Fish and Wildlife Service elicited comments when it proposed listing the northern spotted owl and marbled murrelet. They also held public hearings during the summer of 1991 on the proposed designation of critical habitat for the northern spotted owl, and have more recently received comments on the *Recovery Plan for the Northern Spotted Owl - Draft*. During the spring of 1992, there was public comment and discussion in connection with the hearings conducted by the Endangered Species Committee ("the God Squad") on a proposed exemption to the Endangered Species Act.

The Bureau of Land Management is in the process of preparing Resource Management Plans for its Districts in western Oregon, and has completed plans for the lands they administer in California within the range of the northern spotted owl. Scoping for these plans identified issues surrounding the management of late-successional and old-growth forest ecosystems. Between 1986 and 1992, the Bureau of Land Management conducted scoping and solicited and received public comments regarding these issues.

All of these efforts, including those of Congress and the relevant land and resource management agencies, coupled with the actions during and after the Forest Conference, have served to offer ample and continued opportunity for the public identify the issues.

Public Comments on the Draft SEIS

The Notice of Availability for the Draft SEIS was published in the *Federal Register* on July 30, 1993, (58 FR 40444 - 40445) and notice was published in numerous papers of general circulation in Washington, Oregon, and California. The comment period closed October 28, 1993. Approximately 102,000 public comments were submitted during the three month public comment period on the Draft SEIS.

Opportunities for oral as well as written comments were invited in the form of hearings held in Redding, California; Salem, Oregon; and Olympia, Washington, September 27 to October 1, 1993. A total of 359 individuals presented oral comments.

The Nature of the Comments Received

About 90 percent of the documents received were form or modified-form letters. The documents came from all 50 states and several foreign countries. They came from schools, small towns, big cities and rural areas. There were many personal, emotional letters from

people who live in the northwest as well as from those who had vacationed here, have relatives here, or otherwise have a personal interest.

The analysis of the comments showed that the BLM and Forest Service proposal had national importance. Approximately 40 percent of the comments came from east of the Mississippi River, 25 percent from California, 5 percent from Oregon, and 20 percent from Washington.

The comments indicated that the feelings and issues surrounding the management of the National Forests and the BLM-administered lands in the Pacific Northwest and northern California are still intense and still reflect all sides of the issue. Many of those who commented wanted the preferred alternative (Alternative 9) prescriptions on timber harvest, thinning, and salvage in old-growth forests to be more restrictive. Others felt that the level of timber that could be produced under that alternative was far too low to support many people and communities in the region. The comments reflected a change in focus in the public discussion. In contrast to earlier plans to manage habitat for the northern spotted owl or other individual species, the comments on this plan reflected concerns with the forest ecosystem as a whole.

More than 7,100 untimely (postmarked after October 28, 1993) comments were received on the Draft SEIS. Nevertheless, all public comments that were received have been considered in making this decision.

Alternatives 1 and 9 were the focus of comments. Of those people who responded and specifically referred to Alternative 1, approximately 95 percent commented favorably on the management direction of that alternative, while the remaining 5 percent sought more environmental protection. Most respondents who specifically addressed Alternative 9 either sought more environmental protection (45 percent), or expressed negative opinions about the alternative (43 percent). The remaining 2 percent was made up of those who liked the alternative, sought change, or wanted less environmental protection.

Response to Comments on the Draft SEIS

Based on the comments received on the Draft SEIS, numerous changes and corrections were made to the Final SEIS. The key changes are identified at the beginning of each chapter and the appendices in the Final SEIS. Summaries of the comments on the Draft SEIS and responses to those comments appear in Appendix F of the Final SEIS. The following is a list of some of the major concerns raised by the public and a summary of responses to them.

1. Concern: Whether sufficient old-growth is being retained and whether the management regimes proposed can maintain or enhance the ecosystem.

Response: The preferred alternative, Alternative 9 as proposed in the Draft SEIS rated the third highest among the 10 alternatives analyzed in terms of ecosystem quantity and quality (abundance, diversity, processes, functions, and connectivity). Alternative 9 was strengthened in the Final SEIS by the addition of approximately 776,000 acres of reserves. These reserves included the addition of Riparian Reserve Scenario 1 (additional protection of intermittent streams), known northern spotted owl activity centers, known species habitat, Managed Pair Areas in eastern Washington and northern California, and the retention of late-successional

fragments where little remains.

2. **Concern:** Whether the timber volume associated with Alternative 9 is balanced against the needs of the communities and the species involved.

Response: As a result of additional analysis, Alternative 9 was modified from the Draft SEIS to improve overall protection for numerous fish, wildlife and plant species. Although predicted timber harvest levels will be substantially lower than in the 1980's because of habitat protection of late-successional forest related species, Alternative 9 with these modifications should allow a predictable and sustainable source of timber volume for communities.

3. **Concern:** Whether the economic analysis was sufficient.

Response: The economic analysis for this SEIS was a rigorous and scientifically credible process. The relationships among timber volume and jobs and revenues are well established. The effects on the social structure of communities is more variable due to the complexity of factors considered; cause and effect relationships are not as well established.

4. **Concern:** Whether the role of nonfederal lands was appropriately considered.

Response: Nonfederal lands were considered in the analysis of cumulative effects in the SEIS. Non-federal lands were assumed to continue as currently managed for purposes of analysis. Directing changes in the management of nonfederal lands is beyond the scope of this decision.

5. **Concern:** Whether the protection afforded in watersheds would result in degradation of water quality and the abundance and distribution of fish dependent on that quality.

Response: Protection of watersheds under Alternative 9 was increased between the Draft and Final SEIS with the inclusion of Riparian Reserve Scenario 1. This protection exceeds the Best Management Practices currently approved to meet Clean Water Act standards. The Riparian Reserves in Alternative 9 are consistent with or exceed other current scientifically accepted strategies such as PACFish.

6. **Concern:** Whether salvage or thinning should be allowed in reserves.

Response: Alternative 9 as proposed in the Draft SEIS rated the third highest among the 10 alternatives analyzed in terms of ecosystem quantity and quality (abundance, diversity, processes, functions, and connectivity). This rating was partly based on the ability to proactively manage the Late-Successional Reserves to maintain or enhance old-growth structure, diversity, and function. The ability to do this type of management is especially important in the dry provinces and in young overstocked plantations, where some management can protect and enhance old-growth conditions. It is important that such treatments are limited to only those that will be beneficial to late-successional forest conditions. The Ecological Principles for Management of Late-Successional Forests was added to Appendix B of the Final SEIS and provides the rationale for management of these reserves.

7. **Concern:** Whether land management agencies could be trusted to manage resources given that the consequences of various management activities are unknown or have high uncertainty.

Response: Implementation of the Forest Ecosystem Plan is the responsibility of the land management agencies with oversight by the Regional Interagency Executive Committee, the Regional Ecosystem Office and other interagency groups as described in the Memorandum of Understanding for Forest Ecosystem Management and in the Forest Ecosystem Plan. These groups will provide review to assure consistent and appropriate implementation of the selected alternative. Implementation will include the adaptive management process which is a continuing process of action-based planning, monitoring, researching, evaluating and adjusting with the objective of improving implementation and achieving the goals of the Forest Ecosystem Plan. There is sufficient knowledge, research and field experience to begin implementing the Forest Ecosystem Plan immediately, while providing for adjustments through the adaptive management process.

8. **Concern:** Whether existing roadless areas were adequately protected.

Response: The total system of withdrawn and reserved areas, along with the specified standards and guidelines, meet the need to protect the overall ecosystem while providing for other management opportunities. The standards and guidelines of the Forest Ecosystem Plan preclude road construction in unroaded portions of inventoried roadless areas within Key Watersheds, and require the preparation of watershed analyses prior to management activities in such roadless areas outside Key Watersheds.

9. **Concern:** Whether the Adaptive Management Areas were solutions to the problems they are intended to address.

Response: Adaptive Management Area plans will be developed with full participation by the public. Monitoring will be conducted to help assure the objectives of the Adaptive Management Areas are accomplished. The adaptive management process will be used in these areas and any possible outcome will provide information needed to improve implementation. Also, the location and size of the Adaptive Management Areas were designed so that any setbacks in individual areas would not impede the success of the overall regional strategy.

10. **Concern:** Whether the uniqueness of northern California ecosystems was appropriately recognized.

Response: The need for some management in Late-Successional Reserves is recognized in the standards and guidelines of the Forest Ecosystem Plan. Public comments objected to a broad application of a 180-year rotation in the matrix on lands administered by the Forest Service in northern California, despite their dissimilar characteristics. The SEIS Team analytically compared the effects on forest structure and the number of acres in late-successional condition under the 180-year rotation with the rotations outlined in the Draft Forest Plans.

This analysis indicated little difference in the amount of acreage in each seral stage over time as a result of the 180-year rotation. Therefore, the 180-year rotation for National Forests in

California was dropped from Alternative 9, and replaced with the direction to use the rotations in the underlying Forest Plans. These rotations are variable in order to accommodate the variety in forest ecosystems and scope of management objectives. This is the same approach taken in Alternative 9 regarding rotation lengths on other federal forests. The 100-year rotation for hardwood forests under Alternative 9 was also dropped in deference to Forest Plan standards and guidelines. The Forest Plans do not include a regular harvest of hardwoods, therefore no rotation length is set and no hardwood volume is included in the calculation of probable sale quantity (PSQ).

11. Concern: Whether new information available on northern spotted owl population trends was considered.

Response: The most current information on northern spotted owl population trends has been incorporated into the analysis in the Final SEIS. This information is from *Estimation of Vital Rates of the Northern Spotted Owl* by K. P. Burnham, D. R. Anderson and G. C. White, 1994. This analysis is an update of *Demographic Analysis of Northern Spotted Owl Populations* by D. R. Anderson and K. P. Burnham, 1992, that was published for public review in the *Recovery Plan for the Northern Spotted Owl - Draft*. Several features of the Forest Ecosystem Plan are designed to address the population concerns raised in these analyses, including: (1) larger reserves, (2) standards and guidelines for the matrix that are beneficial to the northern spotted owl, and (3) Managed Late-Successional Areas for known owl activity centers in the Washington Eastern Cascades and the California Cascades Provinces. The 1994 study report was included in Appendix J of the Final SEIS, and a lengthy discussion of the results and their implications was included in Chapter 3&4 of the Final SEIS.

In addition, a spatially-explicit model was run to simulate owl population dynamics for a sample of three of the SEIS alternatives, plus a no-harvest scenario, in order to explore possible northern spotted owl population response under a variety of demographic assumptions. The results generally support the conclusion that habitat conditions anticipated under the Forest Ecosystem Plan would provide for stable, well-distributed populations of northern spotted owls on federal lands over the short term as well as the long term. The modeling results are also presented in Appendix J of the Final SEIS.

Other Changes to the Final SEIS Resulting from Public Comments

Other changes, clarifications and corrections made to the Final SEIS as a result of internal reviews, additional analyses and public comments on the Draft SEIS include the following:

- References to "oversight" were changed to "review by the Regional Ecosystem Office" to clarify the unit responsible for such reviews. The Regional Ecosystem Office reports to the Regional Interagency Executive Committee and will be responsible for development, evaluation, and resolution of consistency and implementation issues related to the Forest Ecosystem Plan. This conforms to the implementation structure established in the interagency Memorandum of Understanding for Forest Ecosystem Management, which appears in Appendix E of the Final SEIS.
- Numerous minor boundary adjustments, map changes, and corrections to the data base were made. These changes were made to more accurately reflect the objectives of

the selected alternative and conform to logical watershed or topographic features.

- The guidance for Late-Successional Reserves within the Finney and Northern Coast Range Adaptive Management Areas was changed. Adaptive Management Area plans in these two areas may modify Late-Successional Reserve designation or standards and guidelines. The plans must continue to meet the emphasis of the objectives for these Adaptive Management Areas, which is the restoration and maintenance of late-successional forest and riparian habitat to meet marbled murrelet requirements.

In addition, the maximum age for thinning in the Northern Coast Range Adaptive Management Area was raised to 110 years. This was done because of the high number 80 to 110-year old single-story stands that lack the structure, diversity, and function of old-growth stands. The lack of old-growth stands in this area increases the need for the types of thinning that would hasten the development of old-growth structure, diversity and function.

- An air quality analysis was performed and the results were included in the Final SEIS (Chapter 3&4).
- Alternative 9 was changed to incorporate Riparian Reserve Scenario 1, which provides a higher level of protection for intermittent streams. In addition, standards and guidelines were added setting levels of coarse woody debris and snag retention, requiring surveys and management for some rare and endemic species, adding protection for bat roosting sites, retaining old-growth stands in watersheds with less than 15 percent old-growth forest, and allocating 100 acres around all known northern spotted owl nest sites to Late-Successional Reserves. These changes were made as the result of further analysis of some of the fish, wildlife and plant species. The intent of this analysis was to clarify the Assessment Team's ratings, to assess the impacts of other revisions to Alternative 9, and to examine potential standards and guidelines and land allocation changes that would benefit those fish, wildlife and plant species by improved habitat conditions.

Public Comments on the Final SEIS

We have reviewed and considered all comments that were received during the 30-day waiting period following the Notice of Availability of the Final SEIS.

Review and Approval

Administrative Review

Inasmuch as there is no provision for administrative review of a Secretarial-level decision, there is no further administrative remedy or appeal for an aggrieved party to this decision. For purposes of the Administrative Procedures Act, this may be treated as a final decision for which there is no further administrative remedy.

Effective Date

This decision shall take effect immediately upon the date of the final signature on this document.

Signatures

By signing this Record of Decision together, we exercise our respective authorities over only those portions relevant to our authority.

Mike Espy, Secretary
U.S. Department of Agriculture

Dated:

Bruce Babbitt, Secretary
U.S. Department of the Interior

Dated:

◇

THE WHITE HOUSE
WASHINGTON

MEMORANDUM TO: Members and Alternates
Interagency Steering Committee

FR: Katie McGinty *WJS for KUY*

RE: Review of Final Draft of the Record of Decision

DATE: 30 March 1994

This memorandum describes the review process for the final draft of the Record of Decision, which is enclosed.

All comments on the enclosed draft should be provided to Jim Pipkin at the Department of the Interior by close of business tomorrow, Thursday, March 31st. Because the previous opportunities for the ISC to meet and review the document and discuss the issues have been sufficient, another formal meeting of the ISC is not required. The failure to provide comments to Jim Pipkin or to otherwise contact me directly will be interpreted as your final clearance of the text.

The final ROD will then be provided for Secretarial review to the Departments of Agriculture and Interior by the close of business Monday, April 4th for completion by Thursday COB.

PIPKIN'S FAX # IS 202-219-1220

WILL STELLE

COULD YOU GET ONE TO
NOAH/NMFS — or leave word
what IDA should do Thursday.

Please see me
Thanks
Jim

DRAFT

March 30, 1994

RECORD OF DECISION

for

**Amendments to Forest Service and Bureau of Land Management
Planning Documents Within the Range of the Northern Spotted Owl**

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I. Summary

This Record of Decision is the culmination of an unprecedented effort in public land management. On April 2, 1993, President Clinton convened the Forest Conference in Portland, Oregon to address the human and environmental needs from the federal forests of the Pacific northwest and northern California. The President, Vice-President and much of the Cabinet spent an entire day listening to all points of view and collecting information. The President then directed his Cabinet to craft a balanced, comprehensive and long-term policy for the management of over 24 million acres of public land. A team of expert scientists, economists, sociologists and others was assembled -- the Forest Ecosystem Management Assessment Team led by Dr. Jack Ward Thomas. After three months of intensive work, it produced a report assessing ten options for the management of federal forests.

President Clinton announced his "Forest Plan for a Sustainable Economy and a Sustainable Environment" on July 1, consisting of strategies for forest management, economic development, and agency coordination. The forest management and implementation portion of the strategy, which is the subject of this Record of Decision, was analyzed in a Draft Supplemental Environmental Impact Statement (Draft SEIS) issued in July that received over 100,000 public comments during a three month public comment period. A Final Supplemental Environmental Impact Statement (Final SEIS) was distributed to the public in February 1994.

In this Record of Decision, we, the Secretary of Agriculture and the Secretary of the Interior, jointly amend the planning documents of nineteen National Forests and seven Bureau of Land Management Districts. This represents the first time that two of the largest federal land management agencies, the Bureau of Land Management and the Forest Service, have developed and adopted a common management approach to the lands they administer throughout an entire ecological region.

The management direction consists of extensive standards and guidelines, including land allocations, that comprise a comprehensive ecosystem management strategy. The strategy is based on Alternative 9 of the Final SEIS, as modified in this document and the attached standards and guidelines. The conservation measures included in this strategy are based upon the best available science and attempt to anticipate future environmental problems, avoiding the severe economic dislocation and legal gridlock that occurs when environmental problems are ignored.

Approximately 30% of the 24.45 million acres of federal land in the range of the northern spotted owl has been set aside by Act of Congress. The remaining 70% is allocated by this management direction as: late-successional reserves (30%); managed late-successional areas (1%); riparian reserves (11%); administratively withdrawn areas (6%); adaptive management areas (6%); and matrix (16%). Standards and guidelines for each land allocation provide a coordinated ecosystem management approach to the region. Although certain thinning and salvage activities would be allowed in the reserves, programmed timber harvest would only occur in the 22% of the land designated as matrix or adaptive management areas, and only in compliance with extensive standards and guidelines.

II. Introduction

The controversy over the northern spotted owl and old-growth federal forests of the Pacific northwest has continued since the 1970s. At present there have been or are pending over a dozen lawsuits involving the northern spotted owl, marbled murrelet, and possible future timber harvesting in old growth. There are currently three separate court injunctions that have severely restricted new timber sale programs on federal forests in northern spotted owl habitat for the past three years.

The federal agencies most directly involved in the issues concerning the management of late-successional and old-growth forest within the range of the northern spotted owl are the U.S. Forest Service, Bureau of Land Management, National Park Service, Bureau of Indian Affairs, U.S. Fish and Wildlife Service, National Marine Fisheries Service and the Environmental Protection Agency. The five major federal laws involved in this controversy are the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), National Forest Management Act (NFMA), Federal Land Policy and Management Act (FLPMA), and Oregon and California Lands Act (O&C Act). At times in the past, the federal agencies involved had taken differing and opposing positions on legal and policy issues regarding compliance with the statutes governing management of the federal forests.

President Clinton asked at the April 2, 1993, Forest Conference:

- How can we achieve a balanced and comprehensive policy that recognizes the importance of the forest and timber to the economy and jobs in this region, and how can we preserve our precious old-growth forests, which are part of our national heritage and that, once destroyed, can never be replaced?

The President set forth five principles to guide the federal interagency effort to develop a management strategy to protect the old-growth related species and produce a sustainable level of timber:

First, we must never forget the human and the economic dimensions of these problems. Where sound management policies can preserve the health of forest lands, sales should go forward. Where this requirement cannot be met, we need to do our best to offer new economic opportunities for year-round, high-wage, high-skill jobs.

Second, as we craft a plan, we need to protect the long-term health of our forests, our wildlife, and our waterways. They are a ... gift from God, and we hold them in trust for future generations.

Third, our efforts must be, insofar as we are wise enough to know it, scientifically sound, ecologically credible, and legally responsible.

Fourth, the plan should produce a predictable and sustainable level of timber sales and nontimber resources that will not degrade or destroy the environment.

Fifth, to achieve these goals, we will do our best, as I said, to make the federal government work together and work for you. We may make mistakes but we will try to end the gridlock within the federal government and we will insist on collaboration not confrontation.

President Clinton summed up the Forest Conference:

We're here to begin a process that will ensure that you will be able to work together in your communities for the good of your businesses, your jobs, and your natural environment. The process we [have begun] will not be easy. Its outcome cannot possibly make everyone happy. Perhaps it won't make anyone completely happy. But the worst thing we can do is nothing.

The land allocations and standards and guidelines that are adopted here are intended to satisfy all of the objectives set forth by the President. They comply with the requirements of federal law, including the five statutes listed above. They are based on the best available science and are ecologically sound. They will protect the long-term health of the federal forests. They will provide the highest sustainable level of timber sales and nontimber resources that can be accomplished without degrading the health of the forest or other environmental resources. Moreover, they involve a commitment by the federal agencies to work together.

This decision marks the turning point from formulation to implementation. An

initial set of standards and guidelines has been developed, subjected to public comment, and modified. Now the real work begins -- applying the standards and guidelines and adapting management of federal forests to sustain both the old growth ecosystem and a supply of timber. In order to coordinate the activities of the various federal agencies that are involved, we have established a continuing federal interagency structure that includes the Regional Interagency Executive Committee, the Regional Ecosystem Office, and provincial teams. These groups will oversee the necessary monitoring and research to continuously seek new information and understanding of the complexities involved in managing the ecosystem in the Pacific northwest.

We view the action of adopting these standards and guidelines as a beginning and not an end of the process of resolving the issues that have developed during the controversy over federal forest management. We expect and welcome the continuing involvement of the public in the management of these valuable resources.

III. Decision

In this Record of Decision, we jointly adopt Alternative 9 of the Final SEIS, as modified by this decision, and as amplified in the attachment to this Record of Decision entitled "Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl" (Attachment A). This decision, as spelled out in Attachment A (sometimes referred to herein as "the Standards and Guidelines") is to be applied to lands administered by the USDA Forest Service and the USDI Bureau of Land Management within the range of the northern spotted owl, as provided in this Record of Decision. The following discussion is not intended to cover every aspect of the Standards and Guidelines, and if there should be an inconsistency between the text of this decision and Attachment A, the latter is intended to control.

The Standards and Guidelines apply to the land allocations that are identified on the official maps of the Final SEIS. These maps are stored electronically in the spatially unified database (SPUD) maintained by the interagency geographic information system (GIS) staff in the Regional Ecosystem Office at 333 S.W. First Avenue, Portland, Oregon 97204. Maps at 1/2-inch to the mile scale showing the land allocations are available for each Forest Service and BLM administrative unit at the respective unit offices.

A. Land Allocations

There are 24,455,300 acres of federal land within the range of the northern

spotted owl. This decision specifically incorporates seven land allocation categories, as set forth below. There is considerable overlap among some designated areas. For consistency and for acreage display purposes, such overlaps are shown in only one category, according to the order of land allocations in the following descriptions.

Congressionally Reserved Areas consist of 7,320,600 acres, representing 30% of the federal land within the range of the northern spotted owl. These lands have been reserved by act of Congress for specific land allocation purposes. This decision can not and does not alter any of these congressionally mandated land allocations. Included in this category are National Parks and Monuments, Wildernesses, Wild and Scenic Rivers, National Wildlife Refuges, Department of Defense lands, and other lands with congressional designations.

Late Successional Reserves consist of 7,430,800 acres, representing 30% of the federal land within the range of the northern spotted owl. These reserves, in combination with the other allocations and standards and guidelines, are designed to maintain a functional, interactive, late-successional and old-growth forest ecosystem. They serve as habitat for late-successional and old-growth related species including the northern spotted owl.

Adaptive Management Areas (AMAs) consist of 1,521,800 acres, representing 6% of the federal land within the range of the northern spotted owl. These areas are designed to develop and test new management approaches to integrate and achieve ecological, economic, and other social and community objectives. The Forest Service and BLM will work with other organizations, government entities and private landowners in accomplishing those objectives. Each area has a different emphasis to its prescription, such as maximizing the amount of late-successional forests, improving riparian conditions through silvicultural treatments, and maintaining a predictable flow of harvestable timber and other forest products. A portion of the timber harvest will come from this land. There are ten adaptive management areas.

Managed Late Successional Areas consist of 102,200 acres, representing 1% of the federal land within the range of the northern spotted owl. These lands are either (1) mapped managed pair areas or (2) unmapped protection buffers. Managed pair areas are delineated for known northern spotted owl activity centers. Protection buffers are designed to protect certain rare and locally endemic species.

Administratively Withdrawn Areas consist of 1,477,100 acres, representing 6% of

the federal lands within the range of the northern spotted owl. Administratively withdrawn¹ areas are identified in current forest and district plans or draft plan preferred alternatives and include recreational and visual areas, back country, and other areas not scheduled for timber harvest.

Riparian Reserves consist of 2,627,500 acres, representing 11% of the federal lands within the range of the northern spotted owl. The calculation of riparian reserve acreage is done after all other designated areas. As a result, the acreage shown reflects riparian reserves that are interspersed throughout the matrix. Riparian reserves are areas along all streams, wetlands, ponds, lakes, and unstable or potentially unstable areas where the conservation of aquatic and riparian-dependent terrestrial resources receives primary emphasis. The main purpose of the reserves is to protect the health of the aquatic system and its dependent species; the reserves also provide incidental benefits to upland species. These reserves will help maintain and restore riparian structures and functions, benefit fish and riparian-dependent non-fish species, enhance habitat conservation for organisms dependent on the transition zone between upslope and riparian areas, improve travel and dispersal corridors for terrestrial animals and plants, and provide for greater connectivity of late-successional forest habitat.

Matrix consists of 3,975,300 acres, representing 16 percent of the federal land within the range of the northern spotted owl. The matrix is the federal land outside the six categories of designated areas set forth above. It is also the area in which most timber harvest and other silvicultural activities will be conducted. However, the matrix does contain non-forested areas as well as forested areas that are technically unsuited for timber production.

B. Standards and Guidelines

The detailed requirements that describe how land managers should treat the forest lands within the range of the northern spotted owl are described in Attachment A, particularly section C. Some standards and guidelines apply to all lands, others to a specific land allocation. More than one set of standards and guidelines may apply in some areas -- for instance riparian reserve requirements within a late-successional reserve. In such cases, the more restrictive standards and guidelines generally apply. Some standards and guidelines contain an initial implementation strategy that may differ in some respects from the long-term strategy. The following summaries briefly describe the major standards and guidelines. For a

¹ The term "withdrawn" does not mean a withdrawal for purposes of Section 204 of the Federal Land Policy Management Act.

more comprehensive description of requirements, see Section C of Attachment A.

Current Plans: Existing plans for national forests and BLM lands contain standards and guidelines for all activities, from road and trail construction to visitor information rules. The standards and guidelines apply where they are more restrictive or provide greater benefits to late-successional forest-related species than other standards and guidelines in Attachment A.

Late-Successional Reserves: Late-successional reserves are to be managed to protect and enhance old-growth forest conditions. For each late-successional reserve (or group of small reserves) managers should prepare an assessment of existing conditions and appropriate activities. No programmed timber harvest is allowed inside the reserves. However, thinning or other silvicultural treatments inside these reserves may occur in stands up to 80 years of age if the treatments are beneficial to the creation and maintenance of late-successional forest conditions. In the reserves east of the Cascades and in Oregon and California Klamath Provinces, additional management activities are allowed to reduce risks of large-scale disturbance. Salvage guidelines are intended to prevent negative effects on late-successional habitat. Non-silvicultural activities within late-successional reserves are allowed where such activities are neutral or beneficial to the creation and maintenance of late-successional habitat. Thinning or other silvicultural activities must be approved by the Regional Interagency Executive Committee.

Adaptive Management Areas: Where congressionally reserved areas or late-successional reserves occur within adaptive management areas, the more restrictive standards and guidelines of the congressionally reserved areas or late-successional reserves must be followed; however, within the Finney and Northern Coast Range AMAs, the late-successional reserve designations may be changed by AMA plans. Standards and guidelines for riparian reserves and key watersheds in adaptive management areas may allow more flexibility. AMA planning groups must closely coordinate with the Regional Ecosystem Office.

Managed Late-Successional Areas: Managed owl pair areas are typically on the east side of the Cascade Range, where regular and frequent fires are a natural part of the ecosystem. Certain silvicultural and fire hazard reduction treatments would be allowed to help prevent complete stand destruction from large-scale disturbances, such as high intensity, high severity fires or disease or insect epidemics. Protocols will be developed for the location of special protection buffers.

Administratively Withdrawn Areas: These areas have already been designated in existing plans. Each area must comply with the most restrictive applicable standards and guidelines, whether from Attachment A or from existing plans.

Aquatic Conservation Strategy: The aquatic conservation strategy contains four components: riparian reserves; key watersheds; watershed analysis; and watershed restoration. Each part is necessary to improve the health of the region's aquatic ecosystems.

Riparian Reserves: Attachment A designates initial reserve widths for protected riparian areas, as well as specific requirements for timber management, road construction and maintenance, grazing, recreation, minerals management, fire/fuels management, research, and restoration activities. Initial boundary widths for riparian reserves are as follows:

- Lakes, natural ponds, and fish-bearing streams - the area on each side of the stream equal to the height of two site-potential trees, or 300 feet slope distance, whichever is greater;
- Permanently flowing nonfish-bearing streams - the area on each side of the stream equal to the height of one site-potential tree, or 150 feet slope distance, whichever is greater;
- Constructed ponds and reservoirs and wetlands greater than one acre - the area from the edge of the wetland or the maximum pool elevation to a distance equal to the height of one site-potential tree, or 150 feet slope distance, whichever is greater;
- Seasonally flowing or intermittent streams -- the area on each side of the stream to a distance equal to the height of one site-potential tree or 100 feet slope distance, whichever is greater.

At a minimum, the riparian reserve includes the extent of unstable and potentially unstable areas and wetlands of one acre or less to the outer edges of the riparian vegetation.

Riparian reserve initial boundary widths established by this decision will remain in effect until they are modified following watershed analysis. Guidance on boundary modifications is contained in Attachment A.

Key Watersheds: We are designating three categories of watersheds:

- Tier 1 key watersheds -- those to be managed for at-risk anadromous salmonids, bull trout, and resident fish (141 watersheds, 631,000 acres);
- Tier 2 key watersheds -- those where high water quality is important (23 watersheds, 113,700 acres); and

- non-key watersheds -- all other watersheds (1,882,800 acres).

Matrix: Most of the timber harvest will occur on matrix lands. Standards and guidelines assure appropriate conservation of ecosystems as well as provide habitat for rare and lesser-known species. Some of the major standards and guidelines for matrix lands are:

- a renewable supply of large down logs must be in place;
- at least 15 percent of the green trees on each harvest unit must be retained (except within the Oregon Coast Range and Olympic Peninsula provinces); and
- 100 acres of late-successional habitat around known owl activity centers must be protected.

Survey and Manage: The standards and guidelines require land managers to undertake surveys for species habitats likely to contain rare species of plants and animals, particularly amphibians, bryophytes, lichens, mollusks, vascular plants, fungi, and arthropods. When found, managers should take appropriate measures to conserve them, including: (1) manage known sites of rare organisms; (2) survey for the presence of rare organisms or their habitats prior to ground-disturbing activities; (3) conduct extensive surveys to identify locations and habitats of rare species; and (4) conduct general regional surveys for rare species.

For many species and taxonomic groups, adequate survey techniques may not exist. The standards and guidelines provide an initial implementation strategy to deal with this lack of knowledge.

C. Application of Decision

1. Application to Land and Resource Management Plans

This decision amends the current land and resource management plans with additional land allocations and standards and guidelines. Attachment A applies to all existing plans and will also be incorporated in plans developed in the future. Development of future plans will be closely coordinated with other agencies and with the Regional Interagency Executive Committee.

a. Bureau of Land Management

Districts With Resource Management Plans -- This decision amends the resource management plans for those portions of BLM districts within the range of the northern spotted owl with approved resource management plans. The Redding

Resource Area, the Arcata Resource Area, and the King Range National Conservation Area, all within the Ukiah District of California, have approved resource management plans.

Districts Without Resource Management Plans -- This decision amends management framework plans and timber management plans for those portions of BLM districts within the range of the northern spotted owl without approved resource management plans. The BLM districts without resource management plans are Coos Bay, Eugene, Medford, Roseburg, and Salem Districts and the Klamath Resource Area of the Lakeview District. The units that do not have approved resource management plans have issued draft resource management plans, and the draft environmental impact statements for those draft plans have been supplemented by the Final SEIS. BLM will proceed with completing those plans in accordance with this decision.

b. Forest Service

Regional Guides -- This decision amends the regional guides for those portions of the Pacific Northwest Region (Region 6) and the Pacific Southwest Region (Region 5) within the range of the northern spotted owl.

National Forests With Forest Plans -- This decision amends the forest plans for those portions of National Forests within the range of the northern spotted owl. The National Forests within the range of the northern spotted owl are the Gifford Pinchot, Mount Baker-Snoqualmie, Mount Hood, Olympic, Rogue River, Siuslaw, Siskiyou, Umpqua, and Willamette National Forests. National Forests partially within the range include the Deschutes, Okanogan, Wenatchee, Winema, Lassen, and Modoc National Forests.

National Forests Without Forest Plans -- This decision amends the unit plans and resource management plans for those portions of National Forests without approved forest plans within the range of the northern spotted owl. The National Forests within the range of the northern spotted owl without approved forest plans are the Klamath, Shasta-Trinity, Mendocino, and Six Rivers National Forests. The National Forests without approved forest plans have issued draft forest plans, and the draft environmental impact statements for these draft forest plans have been supplemented by the Final SEIS. The Forest Service will incorporate the new standards and guidelines when completing those plans.

2. Relationship of Standards and Guidelines to Existing Plans

The existing land management plans contain many standards and guidelines that are not superseded by this decision. Only those existing plan standards and

guidelines in conflict with this decision are replaced. Where existing plans are more restrictive or provide greater benefits to late-successional forest related species than Attachment A, the existing plan standards and guidelines will continue.

The quantity of forest products that may be offered for sale in the range of the northern spotted owl will be determined pursuant to Attachment A and existing plan direction. For both Forest Service and BLM lands, an estimate of the probable sale quantity is provided in the Final SEIS. The allowable sale quantity for the existing forest plans and approved BLM resource management plans will be recalculated at the time of plan revision. Using Attachment A, the resulting allowable sale quantity for the four northern California forests without approved forest plans will be recalculated when their respective forest plans are adopted. Allowable sale quantities will also be recalculated for the BLM lands in Oregon when their resource management plans are adopted.

3. Application to Timber Sales

This Record of Decision does not provide final authorization for any timber sale, nor does it compel that any timber sales be awarded. Rather, the decision amends various Forest Service and BLM planning documents; timber sales issued subsequent to the effective date of this Record of Decision must be consistent with these planning documents. In addition, projects must undergo appropriate site-specific analysis, and must comply with applicable regulatory requirements for public participation and administrative appeal.

a. Timber Sales Awarded Prior to Effective Date

Timber sales awarded prior to the effective date of this Record of Decision are not altered by this Record of Decision. These timber sales were consistent with the planning documents in effect at the time they were awarded, complied with the Endangered Species Act and other laws, and the environmental effects of these sales were considered as part of the baseline in the Final SEIS.

For example, timber sales in key watersheds (as described in the Final SEIS) and roadless areas (as defined in the RARE II study) awarded prior to September 1993 were evaluated and adjusted, as needed, to ensure that the sales would not create long-term, unacceptable effects on riparian and aquatic ecosystems. Sales were assessed to determine their effect on state water temperature standards, large woody debris, stream flow, sediment regime, aquatic organisms, and other aquatic resources. The criteria for this evaluation were developed by the scientific group assisting the implementation team. Since September 1993, harvest activities in proposed late-successional reserves have been limited to thinning and salvage,

evaluated using those criteria.

b. Timber Sales Awarded After Effective Date

Timber sales awarded subsequent to the effective date of this Record of Decision must be consistent with the appropriate planning documents as amended by this Record of Decision and applicable regulations and statutes, including the Endangered Species Act. Special provision will be made in the planning documents for certain sales as indicated in the following paragraphs. Where appropriate, timber sale planning documents may tier to the analysis in the Final SEIS.

c. Reviewed Timber Sales

Following publication of the Draft SEIS, a group of timber sales in key watersheds and roadless areas were reviewed and adjusted, as needed, as described in paragraph (a) above. Some of these sales have been awarded and some have not yet been awarded.

The environmental effects of these timber sales were disclosed in site-specific NEPA documents and subsequent review and were considered in the report of the Assessment Team (FEMAT report, p. V-78). The review ensured that these sales would not prevent the attainment of the environmental objectives of the selected alternative.

This Record of Decision specifically provides that the remaining reviewed sales that have been offered since September 1993, but not awarded prior to the effective date of this Record of Decision, may be awarded after the effective date of this Record of Decision without further modification. A list of these timber sales is in Attachment B of this Record of Decision.

d. Timber Sales Released from the Injunction in Seattle Audubon Society v. Lyons

On March 24, 1994, the court in Seattle Audubon Society v. Lyons modified the injunction to allow 24 timber sales in northern spotted owl habitat to be awarded. These sales will be adjusted to conform to the amended planning documents unless they are awarded prior to the effective date of this Record of Decision.

e. Section 318 Timber Sales

This decision specifically provides that timber sales offered pursuant to Section 318 of the FY 1990 Interior and Related Agencies Appropriations Act (P.L. 101-121), but not awarded prior to the effective date of this Record of Decision, may be awarded without further modification if the timber sales meet the consultation

requirements of the Endangered Species Act. [Note: The section 318 issue has not yet been resolved; the foregoing is the proposal of USDA OGC.]

4. Application to Other Contracts, Permits and Special Use Authorizations

As land management plan amendments, the attached Standards and Guidelines will apply to new contracts, permits and special use authorizations as required by Forest Service and Bureau of Land Management planning statutes and regulations.

The attached Standards and Guidelines that require adjustments to current contracts, permits, and special use authorizations will be applied in those cases where statutory or regulatory authority exists. In those cases where contracts, permits, or special uses may not be revised or amended prior to their expiration, Attachment A will be applied at the time of renewal in a manner that reflects subsequent changes in the Standards and Guidelines, if any.

5. Application to Research Activities

An important component of this decision is the facilitation of research activities to gather information and test hypotheses in a range of environmental conditions. Although research activities are among the primary purposes of adaptive management areas and experimental forests, this decision does not intend to limit research activities to these land allocations. Some research activities not consistent with the standards and guidelines of this decision may be appropriate. However, every effort should be made to locate non-conforming activities in land allocations where they will have the least adverse effect upon the objectives of the applicable standards and guidelines. All research activities must meet the requirements of applicable federal laws, including the Endangered Species Act.

6. Relationship to Other Plans and Proposals

Standards and guidelines in plans that have been adopted for National Scenic Areas and Wild and Scenic Rivers continue to apply where they are more restrictive or provide greater benefits for late-successional species.

The management direction and land allocations in this decision constitute the federal contribution to the recovery of the northern spotted owl. We expect that future recovery plans for any listed species dependent on the forest habitat in the Pacific northwest (including the final recovery plans for the northern spotted owl and the marbled murrelet) will use this decision as a base from which to build a strategy for recovery.

The Fish and Wildlife Service is considering a proposal to issue a regulation under section 4(d) of the ESA that would revise the ESA protective measures for the northern spotted owl on certain non-federal lands. The proposal is intended to complement and be consistent with the management direction for federal lands provided in this decision. The Fish and Wildlife Service is preparing a separate EIS to analyze the impacts of any revised protection measures and alternatives. The effect of the proposed action in the scoping notice announcing an intent to promulgate a 4(d) rule has been considered in addressing cumulative impacts in the Final SEIS for this decision. In turn, the Fish and Wildlife Service will consider Attachment A in making the final decision on the 4(d) rule.

The Forest Service and BLM have been engaged in a joint effort known as the "PACFish Strategy" to develop a conservation plan to preserve and enhance stream habitat for wild anadromous fish stocks in the Pacific northwest on lands they administer. The Forest Service and BLM, in consultation with the Fish and Wildlife Service and the National Marine Fisheries Service (through the RIEC and REO), will review any information generated by the PACFish effort and determine whether changes to the standards and guidelines of planning documents are needed.

The Forest Service and BLM are also engaged in a joint effort known as the "Eastside Oregon and Washington Ecosystem Management Strategy Project" to assess the federal forest and old-growth ecosystems east of the Cascades Range. The eastside strategy project is being conducted separately from this decision because the conditions of the ecosystems east of the Cascades are substantially different than those west of the Cascades.

7. Relationship to Other Lands

While the influences of activities on lands administered by the Fish and Wildlife Service, National Park Service, and Department of Defense were considered in the assessment of cumulative impacts in the Final SEIS, this decision does not adopt new management direction for those lands. This decision does not establish direction or regulation for state, tribal, or private lands.

IV. The Alternatives

A. Alternatives Considered

The objectives of complying with the requirements of the environmental laws, providing for late-successional and old-growth ecosystems, and maximizing economic benefits substantially limited the range of reasonable alternatives

available for analysis. The Forest Ecosystem Management Assessment Team (Assessment Team) considered all recent proposed and published strategies for management of northern spotted owl habitat or management of late-successional and old-growth forest ecosystems as potential alternatives. Forty-eight previously developed alternatives were considered, along with five hybrid alternatives containing mixtures of elements from existing plans, and an alternative with long timber harvest rotation (300 to 350 years) with no late-successional reserves.

After considering this range of 54 alternatives, and examining them in two selection processes, 46 were not considered for further refined analysis because it appeared that they would not meet all applicable statutory and regulatory requirements and the objectives articulated by President Clinton. Of the eight identified for further analysis, one was dropped because it was similar to another alternative, and three others were added, resulting in the ten alternatives studied in detail in the Draft and Final SEIS. This process and a description of the alternatives considered are included in Attachment A of the Final SEIS.

During the public comment period on the Draft SEIS, a number of ideas for alternatives were suggested. Some of these were already included in parts of the action alternatives. Other commenters suggested additional alternatives based on the "constant change" theory of ecology. The Final SEIS acknowledges that there is controversy in the scientific community regarding theories of ecosystem process and function. Alternatives 2 through 10 in the Final SEIS are in fact a mix of the "constant change" and "steady state" theories. All alternatives proposed by the public were considered. A summary of each and the reasons for not considering them in detail are described in Appendix F of the Final SEIS.

B. The Action Alternatives

The Final SEIS presents ten action alternatives. Based primarily on the "reserve" recommendations of previous efforts by the Interagency Scientific Committee, the Scientific Panel on Late-Successional Forest Ecosystems, and the Scientific Analysis Team, these alternatives present various mixes of late-successional reserves, managed late-successional areas, riparian reserves, and, in Alternative 9, adaptive management areas. These reserves are integrated with existing congressionally reserved areas, administratively withdrawn areas, and matrix to create a network of late-successional forests and watershed protection. These alternatives provide for various levels of habitat for late-successional forest related species and result in various levels of social and economic benefits.

A summary and comparison of land allocations, including acres and standards and guidelines, is presented in Table ROD-1. An estimate of the sustainable timber harvest for each action alternative for the first decade was made. The estimate of

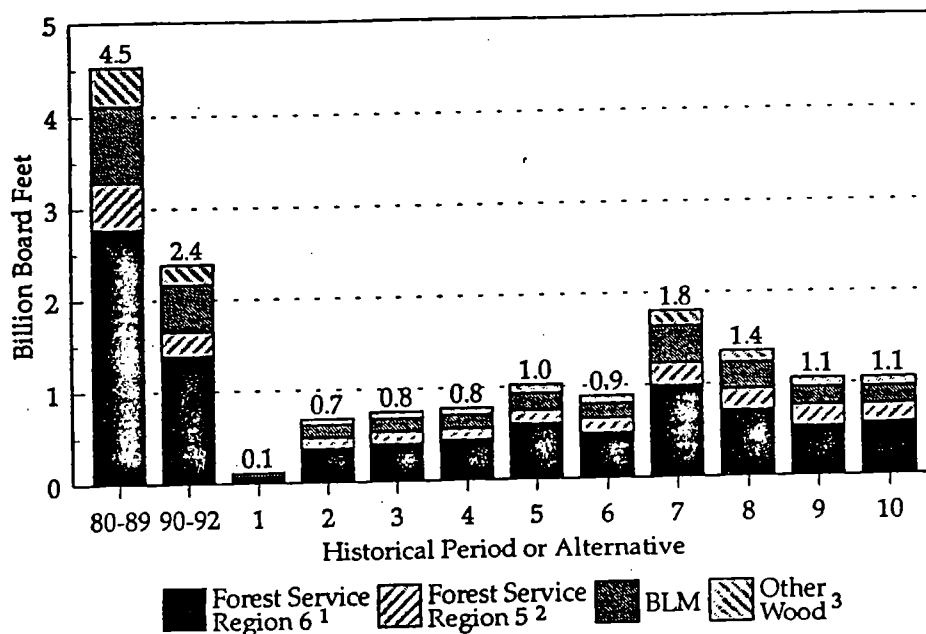
Table ROD-1. Summary and comparison of land allocations and standards and guidelines among alternatives.

	Alternative	1	2	3	4	5	6	7	8	9	10
Congress. Res. With	Million acres	7.321	7.321	7.321	7.321	7.321	7.321	7.321	7.321	7.321	7.321
Late-Successional Reserves	Million acres	11.402	8.951	7.359	8.066	6.376	7.501	5.423	7.501	7.431	7.501
	Timber harvest/salvage	None	Treatment of stands less than 50 years old. Very limited salvage	Same as Alternative 2	Treatment of stands and salvage per Northern Spotted Owl Recovery Plan	Same as Alternative 4	Same as Alternative 2	Same as Alternative 4	Treatment of stands in Murrelet Zone 1 up to 50 years. Other stands up to 180 years.	West - Treatment of less than 80 years old. East - Manage to reduce risk of catastrophic loss.	Same as Alternative 2
	Protection for sites occupied by marbled murrelets outside reserves	Yes	Yes	Yes	Yes	Yes	Yes	No ²	No ²	Yes	Yes
	Protection of SAT species closely associated with old growth	Yes	No	Yes	Yes	Yes	No	No	No	Yes	No
Managed Late-Successional Areas or Adaptive Management Areas (Alt. 9 only)	Million acres	0	0	1.700	0.238	0.381	0	0.381	0	1.522 (AMA) 0.102 (WLSA)	0
	Timber harvest/salvage	N/A	N/A	West - Long rotation, 50 percent retention East - Long rotation, or uneven-age management	Treatment of stands and salvage per Northern Spotted Owl Recovery Plan	Same as Alternative 4	N/A	Same as Alternative 4	N/A	Adaptive Management Areas and some Managed Late-Successional Areas	N/A
Administratively Withdrawn Areas	Million acres	1.080	1.509	1.499	1.652	2.067	1.828	2.282	1.828	1.477	1.828
Riparian Reserves	Million acres	1.880	2.164	2.134	2.896	2.674	2.513	0.622	1.503	2.628	2.513
	Widths ¹	2:1:1	2:1:1 in Tier I Key Watersheds, 2:1-1/2 other watersheds	Same as Alternative 2	Same as Alternative 1	Same as Alternative 2	Same as Alternative 2	Variable, usually no reserves on intermittent streams	2-1/2-1/2	Same as Alternative 1	Same as Alternative 2
Matrix	Million acres	2.773	4.511	4.443	4.284	5.637	5.293	8.428	6.303	3.975	5.293
	50-11-40	Yes	Yes	Yes	Yes	Yes	Yes	Natl. Forest-Yes BLM-modified	No	No	No
	Snags: logs: green trees per acre	2:2:6	2:2:6	Support 40% pop: West - 12, East - 2-10:4	Variable on National Forests. BLM - 2:2:6-9	Same as Alternative 4	2:2:6	Same as Alternative 4	Same as Alternative 4	Coastal areas WA/OR: 2:8-12:0 Other areas 2:8-12:15%	2:2:6

¹ Riparian Reserve Widths (e.g., 2:1:1), are expressed as multiples of the height of a maximum site-potential tree, measured on each side of fish-bearing streams, nonfish-bearing streams, and intermittent streams, respectively (see text).

² Not specifically required in the alternative, but currently required under the Endangered Species Act.

Figure ROD-1. First decade probable average timber sale levels (PSQ) by historical period and alternative.



¹ Region 6 = Pacific Northwest Region

² Region 5 = Pacific Southwest Region

³ Includes cull, submerchantable material, firewood and other products.

Table ROD-2. Historical and projected employment (in thousands of jobs) in the timber industry in the next decade, by state and alternative, within the range of the northern spotted owl. This includes self-employed individuals in the solid wood products and pulp and paper sectors. Wage and salary employment is approximately 7.5 percent less than total employment.

State	1990 actual	1992 (est.)	Alt. 1	Alt. 2	Alt. 3	Alt. 4	Alt. 5	Alt. 6	Alt. 7	Alt. 8	Alt. 9	Alt. 10
WA	57.9	51.3	48.1	48.7	48.7	48.7	48.7	48.8	48.7	49.0	48.4	48.8
OR	73.1	62.8	51.2	54.7	54.9	55.4	56.6	54.4	61.3	58.2	56.4	56.4
CA	13.9	11.3	10.2	10.6	10.7	10.6	10.7	10.8	10.8	10.9	11.1	10.9
Total	144.9	125.4	109.5	114.0	114.3	114.7	116.0	114.0	120.8	118.1	115.9	116.1

that annual level for the first decade is expressed as the Probable Sale Quantity (PSQ). The PSQ levels estimated for each of the ten alternatives in the Final SEIS are shown in Figure ROD-1. Based on these estimated PSQ levels, estimates of the numbers of jobs that could be available in the timber industry were also projected. These estimates for the ten alternatives are shown by state and total in Table ROD-2.

We have considered the ten alternatives presented in the Final SEIS, as well as the no-action alternative required by 40 CFR 1502.14(d). Summary descriptions of these alternatives follow.

Alternative 1

This alternative protects essentially all old-growth forests. It was designed to offer the highest probability of meeting five biological objectives: (1) viability of northern spotted owls, (2) viability of marbled murrelets, (3) viability of fish species and stocks at risk, (4) viability of other species associated with old-growth forests and (5) maintenance of functional and interconnected late-successional forests on federal lands. It would protect forests adjacent to streams to conserve aquatic resources and spotted owl dispersal habitat. Some forest cover would be retained in areas where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 11,402,400 acres
Lands administratively withdrawn: 1,079,700 acres
Lands in riparian reserves: 1,879,700 acres
Lands in matrix: 2,772,700 acres

Estimated annual probable sale quantity: 0.1 bbf
Anticipated regional timber employment: 109,500 jobs

Alternative 2

This alternative is designed to protect the ecologically significant old-growth forests and additional areas considered necessary for the northern spotted owl. Management of intervening lands would be focused on providing successful owl dispersal. Limited salvage and silvicultural practices would be allowed within the late-successional reserves, a high level of protection for forests adjacent to streams is prescribed. To protect spotted owl dispersal habitat, some forest cover would be retained in areas where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres

Lands in late-successional reserves: 8,951,000 acres
Lands administratively withdrawn: 1,509,300 acres
Lands in riparian reserves: 2,164,000 acres
Lands in matrix: 4,510,500 acres

Estimated annual probable sale quantity: 0.7 bbf
Anticipated regional timber employment: 114,000 jobs

Alternative 3

This alternative is designed to protect ecologically significant old-growth forests, while at the same time allowing for limited harvest of forest products from some managed late-successional forests. Land allocations and management prescriptions would vary by physiographic province; the drier provinces would be treated differently from the other physiographic provinces. A high level of protection for forests adjacent to streams is prescribed and, to permit owl dispersal, some forest cover would be retained in areas where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 7,359,300 acres
Lands in managed late-successional areas: 1,699,700 acres
Lands administratively withdrawn: 1,498,700 acres
Lands in riparian reserves: 2,134,200 acres
Lands in matrix: 4,443,200 acres

Estimated annual probable sale quantity: 0.8 bbf
Anticipated regional timber employment: 114,300 jobs

Alternative 4

This alternative is designed to protect the most ecologically significant late-successional forests, significant late-successional forests near the coast, and additional areas identified to protect northern spotted owls. It would protect forests adjacent to streams to provide for endemic species protection, and provide for the retention of some forest cover in areas where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 8,066,100 acres
Lands administratively withdrawn: 1,651,500 acres
Lands in riparian reserves: 2,896,100 acres
Lands in matrix: 4,283,600 acres

Estimated annual probable sale quantity: 0.8 bbf
Anticipated regional timber employment: 114,700 jobs

Alternative 5

This alternative is based on the multi-species conservation strategy developed by the Forest Service Scientific Analysis Team, which layers conservation measures benefitting over 500 species. Accordingly, it presents increased species viability but does not provide as much protection of old-growth systems as other alternatives. It offers high riparian protection, marbled murrelet protection and endemic species protection beyond that described in the Final Draft Spotted Owl Recovery Plan.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 6,376,400 acres
Lands in managed late-successional areas: 381,100 acres
Lands administratively withdrawn: 2,067,000 acres
Lands in riparian reserves: 2,673,800 acres
Lands in matrix: 5,636,500 acres

Estimated annual probable sale quantity: 1.0 bbf
Anticipated regional timber employment: 116,000 jobs

Alternative 6

This alternative is designed to protect the most ecologically significant late-successional forests, significant late-successional forests near the coast for marbled murrelets, and additional areas for northern spotted owls. A high level of protection for forests adjacent to streams is prescribed. To enhance spotted owl dispersal, some forest cover would be retained in areas where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 7,500,900 acres
Lands administratively withdrawn: 1,828,400 acres
Lands in riparian reserves: 2,512,600 acres
Lands in matrix: 5,292,900 acres

Estimated annual probable sale quantity: 0.9 bbf
Anticipated regional timber employment: 114,000 jobs

Alternative 7

This alternative is intended to reflect the most likely management direction that would have been implemented if the Forest Service and BLM had continued their present land and resource management planning processes as described in current or draft plans, and if they had adopted the elements of the *Final Draft Recovery Plan for the Northern Spotted Owl*. It provides the lowest level of riparian protection of the 10 action alternatives and provides for some limited retention of forest cover where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 5,422,800 acres
Lands in managed late successional Areas: 380,500 acres
Lands administratively withdrawn: 2,281,800 acres
Lands in riparian reserves: 622,300 acres
Lands in matrix: 8,427,600 acres

Estimated annual probable sale quantity: 1.8 bbf
Anticipated regional timber employment: 120,800 jobs

Alternative 8

This alternative is designed to protect the most ecologically significant late-successional forests and significant late-successional forests near the coast. It provides for a minimum level of protection of forests near streams. Retention of forest cover in areas where timber harvest is allowed would be based on current plans and draft plan preferred alternatives.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 7,500,900 acres
Lands administratively withdrawn: 1,828,400 acres
Lands in riparian reserves: 1,502,600 acres
Lands in matrix: 6,303,900 acres

Estimated annual probable sale quantity: 1.4 bbf
Anticipated regional timber employment: 118,100 jobs

Alternative 9 - The Preferred Alternative

Alternative 9 builds on a number of elements from previous attempts to conserve late-successional and old-growth forests and protect associated species. Like a number of other alternatives, it is based on the concept that a system of well-

distributed reserves will protect old-growth ecosystems and provide sound habitat for species that depend on those systems. However, under Alternative 9, the emphasis is on locating late-successional reserves in key watersheds, in order to serve the dual objectives of efficiency and resource protection. This alternative uses four principal components as the basis of its riparian protection scheme: key watersheds, riparian reserves, watershed analysis, and watershed restoration. The riparian reserve system will conserve aquatic resources as well as provide dispersal habitat for spotted owls and suitable habitat for numerous species. Alternative 9 designates "adaptive management areas" to encourage testing of technical and social approaches to achieving ecological, social, and economic objectives.

Congressionally reserved areas: 7,320,600 acres
Lands in late-successional reserves: 7,430,800 acres
Lands in managed late-successional areas: 102,200 acres
Lands administratively withdrawn: 1,477,100 acres
Adaptive management areas: 1,521,800 acres
Lands in riparian reserves: 2,627,500 acres
Lands in matrix: 3,975,300 acres

Estimated annual probable sale quantity: 1.1 bbf
Anticipated regional timber employment: 115,900 jobs

Alternative 10

This alternative is designed to protect ecologically significant late-successional forests, significant late-successional forests near the coast for marbled murrelets, and some additional areas for northern spotted owls. A high level of protection for forests adjacent to streams is prescribed. This alternative is identical to Alternative 6 except that it provides for retention of less forest cover where timber harvest is allowed.

Congressionally reserved areas: 7,320,600 acres
Lands in late successional reserves: 7,500,900 acres
Lands administratively withdrawn: 1,828,400 acres
Lands in riparian reserves: 2,512,600 acres
Lands in matrix: 5,292,900 acres

Estimated annual probable sale quantity: 1.1 bbf
Anticipated regional timber employment: 116,100 jobs

C. No-Action Alternative

For both BLM and the Forest Service, the no-action alternative consists of management direction and plans in place immediately before the release of the Interagency Scientific Committee's *A Conservation Strategy for the Northern Spotted Owl*. As considered in the Final SEIS, the no-action alternative is the same as that described in the Environmental Impact Statements that the Final SEIS supplements, and is consistent with Council on Environmental Quality (CEQ) requirements to present "no change" from current management direction or level of management intensity. However, because of the listings of the marbled murrelet and the northern spotted owl as "threatened", concern over declining fish stocks, and other recent information regarding the habitat for other late-successional forest related species, the no-action alternative is no longer biologically or legally feasible. It does not meet the requirements of the Endangered Species Act or the National Forest Management Act. Additional discussion of this and the rationale for not further considering the no-action alternative is included in Chapter 2 of the Final SEIS.

D. Environmentally Preferable Alternative

CEQ's regulations require that the Record of Decision specify "the alternative or alternatives which were considered to be environmentally preferable." (40 CFR 1505.2) CEQ's "Forty Questions" document (46 Federal Register, 18026, March 23, 1981) clarifies that "The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative that best protects, preserves, and enhances historic, cultural, and natural resources."

Alternative 1 excludes management activity in all old-growth forest stands, preserving them from human management actions. It would reserve more late-successional habitat than any other alternative -- 11.4 million acres. Alternative 1 would designate 2.8 million acres of land as matrix, the least of any of the alternatives. Based on the probable sale quantity estimates, Forest Service and Bureau of Land Management forests would have produced about 100 million board feet of timber annually under Alternative 1. The assessment panels used by the Assessment Team generally found that Alternative 1 would produce high ratings for more species of animals and plants than any other alternative. Based on these factors, we conclude that Alternative 1 is the "environmentally preferable alternative."

V. The Selected Alternative

As indicated in the Final SEIS, the proposed action responds to dual needs: the need for forest habitat and the need for forest products.

The need for forest habitat is the need for a healthy forest ecosystem with habitat that will support populations of native species (particularly those associated with late-successional and old-growth forests) and includes protection for riparian areas and waters. This need was reflected by President Clinton at the Forest Conference when he spoke of the need "to protect the long-term health of our forests, our wildlife, and our waterways."

The need for forest products from forest ecosystems is the need for a sustainable supply of timber and other forest products that will help maintain the stability of local and regional economies on a predictable and long-term basis. At the Forest Conference President Clinton spoke of "the human and the economic dimensions" of the problem and asked for a plan that would "produce a predictable and sustainable level of timber sales and nontimber resources."

These dual needs are consistent with the congressionally directed purposes as expressed in a variety of laws which direct management of the National Forests and the lands administered by the Bureau of Land Management. A long history of controversy, scientific evidence, and the environmental analysis in the Final SEIS all indicate that neither of these needs can be met at the highest possible level without significantly impairing our ability to meet the other. Thus, the choice before us is one of selecting the management direction that balances our potential to meet, as best we can, both of these needs.

The congressionally directed purposes for managing the National Forests and the Bureau of Land Management-administered lands include both conserving the ecosystems upon which species depend, and at the same time providing raw materials and other resources that are needed to sustain the health and economic well being of the people of this country. To balance these sometimes conflicting purposes and conserve an ecosystem that crosses the administrative boundaries of both the major federal land-managing agencies, the Forest Service and the Bureau of Land Management need to adopt the alternative that will both maintain and restore the late-successional and old-growth forest ecosystem and provide a predictable and sustainable supply of timber, recreational opportunities, and other resources at the highest level possible. Alternative 9 best meets these criteria.

We have reviewed the ten alternatives in the Final SEIS, their predicted environmental, economic and social consequences, and the risks and safeguards inherent in them. Alternative 9 in the Final SEIS is the best alternative for providing a sustainable level of human use of the forest resource while still meeting the need to maintain and restore the late-successional and old-growth forest ecosystem. We therefore select Alternative 9 as reflected in Attachment A as the

management direction that best responds to the legal requirements and the policies enunciated by President Clinton.

We base our conclusion on a number of factors. Although management under Alternatives 7, 8, and the no-action alternative would provide somewhat higher levels of timber supply than Alternative 9, those alternatives would not provide adequate assurance that the late-successional and old-growth forest ecosystem would be maintained and restored, and would not provide adequate assurance that the riparian habitat essential for many aquatic and terrestrial species would be maintained and restored. The Assessment Team found that all alternatives except Alternatives 7 and 8 would "reverse the trend of degradation and begin recovery of aquatic ecosystems and habitat" (see Report of Forest Management Assessment Team [hereafter "FEMAT Report"], p. II-41; Final SEIS, p. 2-70). The Assessment Team found that the likelihood the marbled murrelet (listed as a threatened species under ESA) would remain well-distributed across its range was only 26 percent under Alternative 7 and 29 percent under Alternative 8 (FEMAT Report, pp. IV-153 and IV-168). As to the no-action alternative, that alternative is based on plans that existed prior to the listing of both the northern spotted owl and the marbled murrelet, and it makes no provision for the recovery of those species. In addition, it reflects a lower level of riparian habitat protection than any of the other alternatives. The Council on Environmental Quality found that implementation of the no-action alternative "will not meet the requirements of the viability regulation" and that the alternative therefore "does not constitute a reasonable alternative" (Final SEIS, App. C). In view of these factors, together with the comments received arguing that even the more protective alternatives may not satisfy the legal requirements, Alternatives 7 and 8 and the no-action alternative may not satisfy the requirements of the Endangered Species Act or the National Forest Management Act and its implementing regulations.

Alternative 10 would produce approximately the same level of timber supply as Alternative 9 but would provide somewhat less protection for riparian-dependent species and less connectivity between reserves that aid in the dispersal of terrestrial species. According to the Final SEIS, "the likelihood of achieving an outcome with sufficient quality, distribution and abundance of habitat to allow riparian-dependent plant and animal species to stabilize, well distributed across federal lands, is lower" for Alternative 10 than for Alternative 9, as modified in the Final SEIS (p. 2-70). Alternative 10 also would provide less assurance of a functional system of old-growth forest.

Alternatives 1 through 6 would provide a reduced timber supply when compared to Alternative 9 as it appeared in the Draft SEIS. Based on the habitat assessments made by the Assessment Team, Alternatives 1 through 6 would in many cases provide higher levels of assurance of the continuation of the diversity of plant and animal communities in the planning area than Alternative 9. However, Alternative

9 has been modified to provide additional habitat and species protection. Between the Draft and Final SEISs, approximately 775,000 acres were reclassified as either additional late-successional reserve or additional riparian reserve.

The impacts to many species, and groups of species, of fish, wildlife and plants are complex and difficult to summarize in this Record of Decision. They are described in detail in the Final SEIS. Based upon the Final SEIS and all of the information in the record, we have determined that Alternative 9, as modified by this decision, meets the needs of species influenced by federal land management activities, assuring the viability of vertebrate species and reducing the risk of extirpation of invertebrate and plant species. We find it meets the requirements of the National Forest Management Act to provide for a diversity of plant and animal communities, and the requirements of the Endangered Species Act for the conservation of listed species. It also meets the requirements of laws directing the management of these forests for sustainable multiple uses, including the National Forest Management Act, the Federal Land Policy and Management Act, and the Oregon and California Lands Act. Moreover, it meets the requirements of acts that protect elements of the environment, and requirements for coordinated planning and consultation.

In addition, Alternative 9 offers one advantage that the other alternatives do not -- its inclusion of adaptive management areas. Adaptive management involves experimentation, identifying new information, evaluating it, and determining whether to adjust plan direction or influence discretionary decisions. The object is to improve the implementation and achieve the goals of the selected alternative. Each of the alternatives incorporates the principles of adaptive management to some extent, but Alternative 9 is the only one that specifically allocates ten adaptive management areas, which may be used to develop and test new management approaches to achieve the desired ecological, economic, and other social objectives. These AMAs offer the opportunity for creative, voluntary participation in forest management activities by willing participants. We recognize that this will take time, effort, and a good faith commitment to the goal of improved forest management. Many of the potentially participating agencies have different capabilities for joining this effort. Our approach to implementing this initiative will recognize and reflect these differences as we seek to encourage and support the broadest possible participation.

Moreover, Alternative 9 allows silvicultural activities, such as thinning young monoculture stands, in late-successional reserves when those activities will enhance late-successional conditions. Even when compared to Alternative 1 (which in the short-term protects more old growth than Alternative 9), Alternative 9 may in the future provide a better connected network of old-growth forests. According to the Final SEIS, Alternative 1 did not rate as high as Alternative 9 in providing the likelihood of maintaining and enhancing late-successional

ecosystems at levels that approach typical long-term conditions," because Alternative 1 "lacks restoration silviculture in the reserves" (Final SEIS, p. 2-69).

VI. Mitigation

A. Mitigation Measures Adopted as Standards and Guidelines in the Selected Alternative

Many of the components of the standards and guidelines of the selected alternative are mitigation measures. Singularly and collectively, they avoid, rectify, reduce, or eliminate potentially adverse environmental impacts of forest management activities. For example, there are standards and guidelines for riparian reserves, green tree retention, owl activity centers, managed late-successional areas, monitoring, and "survey and manage" requirements.

The standards and guidelines of the selected alternative mitigate the impacts to plant and animal species and their interrelated ecosystems. The standards and guidelines for the land allocations of this decision will improve current conditions and alter certain past practices detrimental to late-successional species by protecting large blocks of remaining late-successional and old-growth forests, and by providing for the regrowth and replacement of previously harvested late-successional forest stands. Between the Draft SEIS and the Final SEIS, the amount of land in late-successional reserves and riparian reserves was substantially increased. Late-successional reserves were increased by 378,000 acres, and riparian reserves were increased by 397,000 acres. The result is an increase of reserves by 775,000 acres. Within the range of the northern spotted owl, only 22 percent of federal land will be available for timber harvest from matrix and AMA lands. The remaining 78 percent is designated as some type of reserve or otherwise not available for programmed timber harvest.

Green tree retention, owl activity center protection, and the riparian reserves in particular mitigate timber harvest effects by providing for well distributed patches of late-successional forest that serve for dispersal of mobile species such as the northern spotted owl, and serve as refugia for species that disperse only short distances.

Further mitigation will be identified as necessary through monitoring and will be implemented through the adaptive management process under the coordination and review of the Regional Ecosystem Office and the Regional Interagency Executive Committee.

Some suggestions that were made on the Draft and Final SEIS, while presenting a reasonable basis for providing special protection for specific areas, were outside

the scope of the SEIS. Analysis of specific areas will be better and more appropriately considered at the planning unit level in accordance with current land and resource management planning procedures.

B. Mitigation Measures Not Adopted

The following mitigation measures were identified but not adopted as part of the selected alternative. The reasons why it was not necessary to adopt these particular mitigation measures are also described.

1. Vertebrates

The potential mitigation measures that could benefit fish are to remove all lands in Tier 1 key watersheds from programmed timber harvest, to build no new roads in Tier 1 key watersheds, and to remove inventoried roadless areas from the programmed timber harvest. These potential mitigation measures were not adopted because standards and guidelines described in Attachment A will provide adequate habitat on federal lands for these species. The adoption of riparian reserve scenario 1 (see Attachment A, pp. C-30 to C-38) is of particular significance. Under the Standards and Guidelines, new roads will not be allowed within inventoried roadless areas in key watersheds. If funding is available, the existing road mileage in key watersheds will be reduced through the decommissioning of roads. In any event, there will be no net increase in roads in key watersheds. For non-key watersheds that contain roadless areas, watershed analysis is required before management activities can occur within those roadless areas (see Attachment A, p. B-19).

For northern spotted owls, possible additional mitigation measures are to provide managed late-successional areas corresponding to the owls' home range or to manage known and future spotted owl activity centers in the matrix as reserved pair areas. This mitigation was described as a possible response to the demographic results indicating a declining spotted owl population. If ongoing monitoring of the owl population indicates that this measure would be appropriate, adjustments can be made in future planning to address the need. Another possible mitigation is that the rate of timber harvest in the matrix could be controlled (such as with the 50-11-40 rule) to provide additional dispersal habitat for spotted owls. This measure was not adopted, in part, due to the acreage of late-successional and other reserves well-distributed in the matrix, which is greater than what had been proposed for reserves when the 50-11-40 rule was developed. Moreover, the reserves are closer together than previous plans. Also, this will protect larger amounts of nesting, roosting, and foraging owl habitat, which will be higher quality than what the 50-11-40 rule would have done (see Appendix G, part 3 of the Final SEIS. In addition, it was our judgment that Alternative 9 as modified by this decision would adequately provide for the continued viability of the northern

spotted owl on federal lands as required by NFMA and would furthermore provide the federal lands contribution to recovery of the northern spotted owl under ESA.

For marbled murrelets, possible mitigation measures are to retain all suitable habitat contiguous with occupied sites that are protected in the matrix, regardless of distance from nest site or to retain all old-growth habitat within marbled murrelet zone 1. The selected alternative is expected to provide the major federal land contribution for murrelet conservation and make the additional mitigation unnecessary.

To benefit the black-backed, white-headed, and Williamson's woodpeckers in the Eastern Cascade Range, potential mitigation measures would be to reduce harvest and salvage in old-growth areas. Because of the strength of late-successional reserves under the selected alternative and because of the standards and guidelines limiting salvage and thinning in those reserves, we conclude that these potential mitigation measures are not necessary.

Possible mitigation measures that could benefit bats are to gate cave entrances in such a way that air flow patterns are maintained, people are excluded, and bats can freely enter and exit. Gating of cave entrances is a decision that would be more appropriately addressed in local planning efforts, where site-specific issues can be assessed. In addition, we decided not to adopt the measures because standards and guidelines described in Attachment A will successfully provide habitat conditions for these species. In particular, the adoption of matrix management provisions, protection of caves, mines and other roost sites, and providing equivalent riparian protection in AMAs (see Attachment A, pp. C-40 to C-44) adequately provide for these species.

2. Invertebrates and Plants

The possible mitigation measure that could benefit arthropods is to eliminate burning as a means of site preparation after timber harvest to avoid negative impacts to arthropods that are associated with the removal of coarse woody debris, and the litter and soil layers. The standards and guidelines for matrix management were modified to specifically reduce the impact of burning as a site preparation measure. The complete elimination of burning was not considered appropriate at this scale of decisionmaking because it is likely to continue to be an appropriate and valuable tool under some conditions. Also, some other (non-arthropod) species were specifically identified as benefitting from burning under controlled conditions.

Mitigation measures that could benefit bryophytes include: regulating commercial moss collecting to prevent overharvest; managing additional forest land along the coast for old-growth Sitka spruce; protecting cold springs as important resources

for biological diversity; maintaining water quality at Waldo Lake (to protect the population of *Marsupella emarginata* var. *aquatica*); leaving windfalls in place to provide structurally diverse habitat for *Schistostega pennate*; and leaving windfirm buffers of green retention trees along fog-drenched ridges to maintain biological diversity. The opportunity to regulate commercial moss collecting remains open. Such a decision for bryophytes was not appropriate at this scale of document whose focus is on habitat, but it may be made in future plans. Recognition of cold springs as important sources of biodiversity has largely been accomplished through adoption of riparian reserve scenario one. While water quality at Waldo Lake may be an issue, it is a local issue that can be decided upon with local planning documents, making a specific mitigation decision unnecessary with this ROD. Managing for additional old-growth Sitka spruce falls into the category of measures that were not adopted due to large cost and uncertain benefit, but most of the species that would have benefitted from the measure will benefit from the survey and manage measure. Species that would have benefitted by leaving green retention trees on fog-drenched ridges will benefit by both the green tree retention standard and the survey and manage measures that were incorporated.

The possible mitigation measures that could benefit fungi include: identifying additional stands for development into old-growth forest in areas where late-successional or old-growth stands are limited; determining appropriate levels of sustained harvest for commercial species; and providing a mosaic of forest, age-class distributions, successional stages and habitat types in the matrix. Regulation of commercial harvest of fungi was not appropriate in this decision, given the uncertainty of how this would be accomplished. Identification of stands for development into old-growth conditions and maintaining a mosaic of conditions in the matrix, will both be partially accomplished through the standard and guideline to retain at least 15% of federal land in each watershed in late-successional condition.

The possible mitigation measures that could benefit lichens include: designating botanical special interest areas or areas of critical environmental concern to protect habitat and key populations of rare and local species; developing management plans to address rare lichen species to provide biological and habitat information, management direction, and recommendations for selecting and monitoring key populations; and retaining trees on ridgelines (which would mimic the retention patterns of natural fire) to optimize dispersal of some lichen species. The standards and guidelines were not amended to designate special interest areas or areas of critical environmental concern, but such sites, and the species that would have been protected in them, will receive significant benefit from the survey and manage measures. Development of specific management plans for lichens was not appropriate in this document, which is primarily focused on habitat, but such plans are a requirement of ongoing agency programs such as the Forest Service sensitive species program. Retention of trees on ridgelines will be partially accomplished

through the green-tree retention standards, and the species that would have benefitted from such mitigation will benefit from the survey and manage standards and guidelines.

The possible mitigation measures that could benefit vascular plants include: designating botanical special interest areas and areas of critical environmental concern to protect habitat and key populations of rare and local populations (e.g., *Aster vialis*, *Bensoniella oregana*, *Cimicifuga elata*, *Corydalis aquae-gelidae*, *Frasera umpquaensis*, *Poa laxiflora*, and *Streptopus streptopoides*); developing, updating, and implementing conservation strategies for species, species groups, and habitats to reduce risk for many sensitive species; implementing well-designed monitoring studies for species with limited distribution and occurrence; conducting basic inventories and studies to determine sustainable yields of special forest products to avoid overharvest and initiating a consistent interagency inventory and classification of riparian plant associations.

Attachment A was not amended to designate special interest areas or areas of critical environmental concern for vascular plants. But as in the case of lichens, such sites, and the species that would have been protected in them, will receive significant benefit from the survey and manage measures. Also, the opportunity remains to do this in a local planning document. Development of specific management plans for vascular plants was not appropriate in this document, which is primarily focused on habitat, but such plans are a requirement of ongoing agency programs such as the Forest Service sensitive species program. Consistent inventories, classifications and monitoring programs are objectives of this plan, and will be overseen by the Regional Ecosystem Office. Therefore, the actions taken pursuant to the standards and guidelines should help address those objectives. Closing roads to control root rot remains an option that could be adopted through local actions where the issue can be reviewed in site-specific planning.

In addition to the above-stated reasons for the individual species groups, many of the possible mitigation measures identified above were not adopted because for most of the species, the standards and guidelines that were adopted make the measure redundant in accomplishing the desired objective. In some cases, the possible mitigation measures were found to be too costly in relation to the uncertain benefits of the measure, the untested or ineffective nature of the measure, or the adverse effect of the measure on other resources or programs.

VII. Changes in Standards and Guidelines Between Final SEIS and this Record of Decision.

The attached Standards and Guidelines for the selected alternative generally reflect Alternative 9 in the Final SEIS. Changes made to the Standards and Guidelines

between the Final SEIS (see Chapter 2, App. B and I) and Attachment A to this Record of Decision include the following. Except as specifically noted, these changes do not alter the analyses of effects described in the Final SEIS.

- The Final SEIS provided (p. 2-5) that Endangered Species Act consultation for the northern spotted owl will not be required for activities that are consistent with Attachment A and that avoid incidental take. Under this decision, consultation that may be required but that does not involve take is expected to be informal. Where incidental take would occur, incidental take statements will be provided through formal consultation (see Attachment A, p. A-3). This procedure is consistent with the statutory and regulatory requirement.
- The requirement for a management "plan" for each late-successional reserve and managed late-successional area on page 2-23 of the SEIS has been changed to a management "assessment" to avoid adding a planning level that would be inconsistent with NFMA and FLPMA planning (see Attachment A, p. C-11).
- The requirement to develop and apply protocols for surveys for species for which protection buffers are required, from page B-64 of the Final SEIS, has been edited to provide timelines for implementation of protocols that are consistent with those described for the "survey and manage" standards and guidelines. It is included on pages C-19 and C-27 of Attachment A. This change gives the agencies time to develop protocols and information needed to implement these standards and guidelines.
- The requirement to retain old-growth fragments in watersheds where little remains, on page B-148 in the SEIS, has been edited to specify that the 15 percent retention standard applies to the federal forest lands within the watershed, not the entire watershed (see Attachment A, pp. C-44 and C-45). This change maintains consistency with the PSQ estimates in the Final SEIS but will reduce the benefits to certain species from levels described in the Final SEIS. However, because of other standards and guidelines added since the Draft SEIS, available habitat under this decision is likely to be better than it would have been under the Draft SEIS.
- Language has been added to the planning discussion to require administrative units to disaggregate and display PSQ for key and non-key watersheds. This change is made because the probable sale quantity (PSQ) effects displayed in the Final SEIS do not differentiate between key and non-key watersheds. The aquatic conservation strategy objectives and the

requirement to do watershed analysis before management activities can take place implies a higher level of uncertainty regarding future sale levels within key watersheds.

- The role of the Regional Ecosystem Office (REO) regarding review or approval has been clarified to show that approval authority for proposed changes rests with the Regional Interagency Executive Committee (RIEC). Where standards and guidelines specify review or approval by the REO, that office reviews, exempts from review, or designs and coordinates a review process, in order to provide recommendations to the RIEC, which has responsibility for decisions. The RIEC may delegate decision-making authority. This change affects the first paragraph on page 2-14 of the Final SEIS. The new language is on page E-16 of Attachment A. Various standards and guidelines in the Final SEIS attributing decision-making authority to the REO have been clarified.

- The "green tree retention" requirement to leave 15 percent of the largest, oldest trees associated with each timber sale unit in the matrix (Final SEIS p. 2-62) has been clarified to apply to regeneration harvests (p. C-41 of Attachment A). This limitation does not apply to intermediate harvests (thinnings) in even age young stands because leaving untreated portions of young stands would retard stand development and be detrimental to the objective of creating late-successional patches.

- The Final SEIS provided that green tree retention in the matrix should generally be patches "larger than 1 hectare (about 2.5 acres, unit size permitting)" and that of the total area to be retained, "at least 70 percent should be in patches greater than 1 hectare (unit size permitting)" (Final SEIS, p. 3-146). Under this decision, the general guide will be that "70% of the total area to be retained should be in aggregates of moderate to larger size (0.2 to 1 hectare or more) with the remainder as dispersed structures (individual trees, and possibly including smaller clumps < 0.2 ha)." (Attachment A, p. ____). The reason for the change is our conclusion that a mixture of dispersed and aggregated retention is most likely to achieve the full array of ecological objectives. The optimal mix of dispersed and aggregated retention and the appropriate size of aggregates will vary with site conditions and specific objectives and should be addressed in watershed and project analyses. The change will provide flexibility in making those determinations.

- Language requiring completion of a management plan for the Snoqualmie Pass AMA before conducting any activities has been changed to permit

minor non-silvicultural activities such as those categorically excluded under NEPA and watershed restoration programs prior to the completion of a management plan. This change permits low-risk activities to proceed.

- The standard and guideline to protect sites from livestock grazing (Final SEIS p. B-149) has been changed to apply only to the mollusks and the vascular plant Pedicularis howelii. Litter dwelling arthropods were deleted from this standard and guideline because the standard and guideline was not implementable, and other provisions of Attachment A adequately provide for this species group.

- The standards and guidelines for "survey and manage" (Final SEIS App. B-11) have been revised. See Attachment A, pp. C-4 through C-6. There are no changes to the requirement to manage known sites. In addition, there are no changes to the requirement that vertebrates listed on page C-59 will have surveys conducted prior to ground disturbing activities that will be implemented in FY 1997 or later. The survey strategy 3 and 4 surveys² will be initiated no later than FY 1996, and the category 4 surveys are to be completed within 10 years. For other species addressed in the Additional Species Analysis, the timeliness for the implementation of survey requirements have been changed.

Survey protocols will be developed and implemented for the 71 remaining species under survey strategy 2 listed on pp. C-49 through 61 as soon as possible. In all cases, these surveys must be completed prior to ground disturbing activities that will be implemented in FY 1999 or later. This will provide agencies a maximum of four full fiscal years (FYs 1995, 1996, 1997, and 1998) in which to develop and apply survey protocols for these species. Agencies are to begin implementation of this requirement with available resources in FY 1994. Work to establish habitat requirements and survey protocols may be prioritized relative to the estimated threats to the species as reflected by Assessment Team ratings.

Annual status reports are to be submitted to the REO for review beginning at the end of FY 1995. As experience is acquired with these requirements, agencies may propose changes to the REO for analysis. These changes could include changing the schedule, moving a species from one survey strategy to another, or dropping this mitigation requirement for any species whose status is determined to be more secure than originally projected. The

² Survey strategies: 1 = manage known sites; 2 = survey prior to activities and manage sites; 3 = conduct extensive surveys and manage sites; 4 = conduct general regional surveys.

REO will forward such proposals, along with recommendations, to the RIEC for action. The RIEC may adopt such changes as appropriate.

These changes acknowledge the magnitude of the task, coupled with the lack of species information, skilled personnel, and assured funding. The environmental effects of changing these timelines will depend on the actual rate of agency progress. Agencies are encouraged to move as promptly as practicable within this schedule, in an effort to preserve species diversity and preclude listings under the ESA.

VIII. Findings

A. Court Injunctions

Since 1991, federal courts have enjoined the Forest Service and BLM from holding most timber sales within the range of the northern spotted owl. Courts have held that the agencies failed to meet procedural and substantive standards of NFMA, NEPA, and ESA. The courts found that:

- Forest Service and BLM failed to coordinate on a conservation strategy to protect northern spotted owls (Seattle Audubon Society v. Moseley, 1992);
- Forest Service failed to adequately consider the effect of the owl strategy on other species dependent on old-growth forests (Seattle Audubon Society v. Moseley, 1992);
- Forest Service failed to consider the most recent demographic information on the northern spotted owl (Seattle Audubon Society v. Moseley, 1992);
- Forest Service failed to put the owl strategy out for public comment (Seattle Audubon Society v. Evans, 1991);
- Forest Service lacked a comprehensive monitoring strategy (Seattle Audubon Society v. Evans, 1991);
- BLM failed to adequately consult with the Fish and Wildlife Service regarding its spotted owl conservation strategy (Lane County Audubon Society v. Lujan, 1992); and
- BLM failed to assess in an environmental impact statement new information on the northern spotted owl (Portland Audubon Society v. Lujan, 1992).

This decision meets all of the deficiencies pointed out by the courts. The Forest Service and BLM have a coordinated spotted owl conservation strategy that addresses owls and other old-growth dependent species. They have considered all the most recent information on spotted owl populations. They have obtained public comments by preparing a supplemental EIS, conducting public hearings, and considering the thousands of comments that were submitted. They have developed a comprehensive monitoring strategy and established the Regional Interagency Executive Committee to ensure its implementation. They have consulted with the Fish and Wildlife Service on their coordinated conservation strategy. The Fish and Wildlife Service has indicated that land allocations and standards and guidelines of Alternative 9, as modified by this decision, fulfill the obligations of the Forest Service and BLM with respect to the recovery of the northern spotted owl. The land management agencies are fully discharging their consultation responsibilities.

B. Legal and Regulatory Compliance

The Forest Service and the Bureau of Land Management plan and manage the national forests and BLM districts within the range of the northern spotted owl under congressional multiple use and sustained yield mandates. This is an unprecedented ecosystem approach to establishing interagency standards and guidelines to protect the northern spotted owl and other old-growth species. Eight federal agencies -- the Forest Service, Bureau of Land Management, Fish and Wildlife Service, National Marine Fisheries Service, National Park Service, Environmental Protection Agency, National Biological Survey, and Bureau of Indian Affairs -- have cooperated to produce those standards and guidelines.

In this section we consider each of the major laws involved in this programmatic level decision.

1. National Environmental Policy Act (NEPA)

The NEPA requires that federal agencies prepare detailed statements on proposed actions that significantly affect the quality of the human environment. The BLM and Forest Service have both integrated NEPA reviews with their land management planning regulations. For each agency, an environmental impact statement (EIS) accompanies its land management plans. The Forest Service and BLM will use Attachment A as a basis for NEPA documents on specific activities. The Final SEIS also presents alternative strategies for amending existing land management plans to protect the northern spotted owl and other old-growth related species.

NEPA's requirement to prepare an environmental impact statement is designed to serve two major functions: to provide decision makers with a detailed accounting of the likely environmental effects of a proposed action prior to its adoption; and to

inform the public of, and allow it to comment on, such effects. The process leading up to this decision has been exemplary on both counts. First, the responsible agencies have compiled and generated an enormous amount of high-quality information relevant to the effects of each of the alternatives considered in the SEIS. Such information builds on the data and analysis set forth in the documents to which the SEIS is a supplement and which it incorporates by reference. Thus, we have had at our disposal a wealth of information, among the best ever compiled for a public land management decision. Second, there has been extensive opportunity for public involvement in the process. The Draft SEIS was sent out to a lengthy list of those who have shown an interest in the issues affecting management of the land subject to this decision. Notices of availability were published to allow people to request a copy of the Draft SEIS and copies were also made available in public reading rooms throughout the region. A 90-day comment period was provided to the public and other entities to comment on the Draft SEIS. Six public hearings were held throughout the region to allow Department officials to hear first hand the views of the public on the proposed action. More than 100,000 comments were received on the Draft SEIS. The agencies responded to each of the major substantive points raised in these comments, and these responses were included in a 190-page appendix to the Final SEIS.

Moreover, we find that the process also complied with each of the major elements of the requirements set forth in the regulations that the Council on Environmental Quality has promulgated to implement NEPA.

First, the SEIS considered a broad range of reasonable alternatives. Fifty-four alternatives were considered in all, including all recently published strategies for management of owl habitat or late-successional and old-growth forest ecosystems generally. This list was pared down to ten alternatives for detailed study in the SEIS in light of the purpose and need of the proposed action, shaped in large measure by the policy goals set forth by President Clinton at the Forest Conference. Among the most important of these is to maintain the long-term health of late-successional forest ecosystems, and the species that depend on them, while at the same time maximizing economic and social contributions, especially for timber-dependent communities. Within these parameters, the ten alternatives analyzed in the SEIS provide for varying balances among the multiple uses served by our federal forests. There is an eighteen-fold difference among probable average annual timber sale levels under the alternatives, and an equally wide array of conservation measures represented. Even alternatives reflecting somewhat similar balances of multiple uses, they prescribe different methods for achieving such outcomes.

Second, the Final SEIS reflects consideration of cumulative effects of the proposed action and all other past, present, and reasonably foreseeable future actions within

the range of the owl. Indeed, effects on species have been estimated out to 100 years and more. Moreover, although nonfederal lands are outside the scope of the SEIS, effects from their management have been considered in the SEIS to a degree appropriate for a programmatic NEPA document at this scale.

Third, the SEIS made use of the best available information and generated much of the data upon which the analysis relies. A special application of geographic information system (GIS) known as the "spatial unified database" was constructed especially for this effort and contains 50 layers of information on federal lands in Oregon, Washington, and California. The views of experts in all relevant fields, including sociology, economics and biology, were solicited and considered in rendering an evaluation of the effects of the alternatives. The government sponsored a workshop that gave rise to a new owl demographic analysis incorporating the most recent data from 1992 and 1993 field studies, the results of which have been fully considered. Government biologists have made several runs of a spatially explicit computer model in an attempt to simulate the relative effects of changing habitat conditions on other alternatives. Notwithstanding the prodigious amount of data reflected in the Final SEIS's analysis, we acknowledge that there is less than perfect information about many of the relationships that lie at the heart of the effects assessment. Nevertheless, we find that there clearly is sufficient information to allow us to make a reasoned choice among the alternatives.

Finally, we recognize that certain new information has come to light since the release of the Draft SEIS. We have fully considered all of it to the extent possible, and indeed, the Final SEIS incorporated the vast majority of it in its analysis. Such information has been useful in clarifying the analysis of effects in the Draft SEIS. It has not, however, altered the effects analysis in the Draft SEIS in any significant manner. Thus, we conclude that there is no need to prepare another Draft SEIS or to provide for additional public comment. Instead, such information should be viewed as a natural outgrowth of the ongoing research and monitoring the government will continue to conduct. New information will be considered, and supplements will be prepared and amendments adopted as the need arises.

The decision here does not authorize timber sales or any other specific activity on federal lands. There is a requirement for additional public involvement and NEPA, ESA and other environmental law compliance before decisions are made to offer timber sales in the matrix lands. There are also opportunities for administrative appeals and protest of site-specific decisions that would change the environmental status quo.

2. National Forest Management Act

NFMA is an amendment to the Forest and Rangeland Renewable Resources

Planning Act. In NFMA Congress established a comprehensive notice and comment process for adopting, amending and revising land and resource management plans ("forest plans") for units of the National Forest System. At the time of enactment of NFMA, ecological thinking in general, and especially in Congress, did not include ecosystem scales of the magnitude dealt with in this decision. The 24.5 million acres of land administered by the federal government within the range of the northern spotted owl is far beyond the "planning unit" focus of NFMA. 16 U.S.C. 1604 and 1611.

The approval of a forest plan establishes direction so that all future decisions in the planning area will include an "interdisciplinary approach to achieve integrated consideration of physical, biological, economic and other sciences." 16 U.S.C. Sec 1604. The forest plan provides direction to assure coordination of multiple-uses (outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness) and sustained yield of products and services.

Within the range of the northern spotted owl there are lands that will be administered pursuant to two regional guides and nineteen forest plans. Under Forest Service planning regulations, National Forest planning and decisionmaking occurs at four levels: nationwide, regionwide, forest plan, and project.

Planning is continuous at each level and between the levels rather than sequential. Continuous monitoring, evaluation and adjustment through amendment and revision is required by NFMA for forest plans. Despite the multiple levels of disclosure, all activities remain subject to site-specific and continuing compliance with federal environmental law such as the Endangered Species Act, National Environmental Policy Act, Clean Water Act, Clean Air Act and others.

a. Diversity Provision and Viability Provision of Fish and Wildlife Resource Regulation

The National Forest Management Act requires the Secretary of Agriculture to promulgate regulations to guide Forest Service planning that "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." In accord with this requirement, the Secretary promulgated a regulation for the fish and wildlife resource, which provides in part: "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area."

Translating the statutory directive to provide for diversity of plant and animal communities through regulatory policy has been, and continues to be, a formidable challenge. As stated by the Committee of Scientists that provided scientific advice

to the Forest Service on the crafting of NFMA regulations, "it is impossible to write specific regulations to 'provide for' diversity" and "there remains a great deal of room for honest debate on the translation of policy into management planning requirements and into management programs" (44 Fed. Reg. 26,600-01 & 26,608). Flexibility is needed in the manner by which the fish and wildlife resource regulation is implemented, and the use of different approaches is appropriate depending upon the particular context of its application.

In the context of this decision, we find that compliance can be achieved through managing or providing for an amount and distribution of habitat that has a substantial likelihood, in light of biological and other relevant factors, of supporting the continued persistence of the vertebrate species that exist in the planning area. Relevant factors include the life history of species, the current amount and distribution of habitat, the amount and distribution of species' ranges within the planning area, and other reasonably foreseeable protective measures. Our approach involves highly technical and complex projections as to which certainty is not possible. There is no way to avoid all risk to the continued persistence of species. Even absent any human-induced effects, the likelihood that habitat will continue to support species' persistence can vary among species. For example, the continued persistence of local rare endemic species whose entire range may comprise only a few acres is intrinsically insecure. Thus, compliance with the regulation is not subject to precise numerical interpretation and cannot be fixed at any one single threshold.

By its own terms, the regulation applies only to vertebrate species. Nevertheless, consistent with the statutory goals of providing for diversity of plant and animal communities and the long-term health of federal forests, as well as the agencies' conservation policies, our decision satisfies a similar standard with respect to non-vertebrate species to the extent practicable.

Although NFMA regulations apply to lands administered by the Forest Service, the fish and wildlife resource regulation was used as a criterion in the development of the alternative we select today, which includes direction for management of BLM lands. Use of the regulation's goals in developing alternatives served the important policy goal of protecting the long-term health of all of the forests under federal management, and the species that inhabit them, within the range of the owl. This is in accordance with direction and authority provided in NFMA, the Multiple-Use Sustained-Yield Act, the Federal Land Policy and Management Act, the Oregon and California Lands Act, and the Endangered Species Act.

In making a determination of compliance with the NFMA fish-and-wildlife resource regulation, we may consider existing or reasonably foreseeable conservation measures. This follows because no one strategy or decision, can for all time provide for the habitat needs of all species that exist in the planning area,

especially in light of the dynamic nature both of ecosystems and of our understanding of them. Measures that may be considered include analyses and activities undertaken pursuant to internal policy directives (e.g., the Forest Service's sensitive species program) and steps taken at differing layers of planning. Regardless of the measures in place, actual on-the-ground conditions also should be considered to the extent practicable given available data.

The fish-and-wildlife-resource regulation does not require species-specific assessments to support a finding that a proposal is consistent with its terms. Rather, in accord with the theme of ecosystem management, a decision-maker may place reasonable reliance upon assessments of (1) species with habitat needs that are essentially the same; (2) a group of species generally thought to perform the same or similar ecosystem functions; and/or (3) the continued integrity and function of ecosystem(s) in which a species is found. Flexibility in selecting methodology is especially appropriate in this context, given the expertise and knowledge of local forest officials concerning the lands they manage, the variety of complex issues involved, and the often-limited resources available. For example, the Assessment Team's approach to evaluating the alternatives, while sound, is not a controlling precedent for how such assessments need to be conducted in the future. Such an approach, which endeavored to identify and assess impacts on more than one thousand species associated with late-successional forest ecosystems, has been unique, in part because it was designed to address specific court-identified deficiencies in previous planning efforts.

Our conclusions are intended to be consistent with previous Department statements and Forest Service practice. They are offered in light of the experience gained through more than a decade of applying the fish and wildlife resource regulation. That previous decisions may use somewhat different verbal formulations to define duties or make compliance determinations is no indication that such initiatives are inconsistent with this decision, so long as an underlying purpose was to plan for the continued persistence of vertebrate species.

We find that our decision and the data and analysis upon which it is based meet or exceed the obligations of the fish and wildlife resource regulation. The assessment of the alternatives' efficacy to provide habitat to support more than 1000 species across all major categories of taxa that exist in the planning area was probably the most comprehensive initiative of its kind ever undertaken. Moreover, implementation of our decision through amendments to planning documents, and taking into account activities permitted under the management direction thereby provided, will provide habitat in an amount and distribution substantially likely to support the continued persistence of species that exist in the planning area. We base our determination on the following findings and evidence in the record:

First, our decision results in approximately 80 percent of the approximately 8.5 million acres of medium and large late-successional conifer forests in the planning area being within land allocations that do not allow for programmed timber harvest (Final SEIS at 3&4-41). In addition, some forty-two percent of the areas within the LSRs to be designated under our decision are dominated by such forest types. LSRs provide for large contiguous blocs in which silvicultural treatments are severely limited, and thus, protect against potential adverse effects thought to result from fragmentation and edge effects on species associated with late-successional and old-growth forest habitat. The Assessment Team gave strong marks to the original version of Alternative 9 regarding the projected likelihood that it would provide for late-successional forest ecosystem conditions representative of a hypothesized long-term average. Our decision contains measures in addition to those in the original Alternative 9 that are likely to further enhance the attributes of late-successional and old-growth forest ecosystems (Final SEIS at 3&4-49). As a result, we find there is more than a substantial likelihood that our decision will allow for the maintenance of a functional and inter-connected late-successional forest ecosystems within the planning area.

Second, the aquatic and riparian subsystems within the range of the owl also receive significant protection under our decision. It places all riparian areas -- including rivers, streams, wetlands, lakes, and ponds -- within variously-sized reserves (Final SEIS at 3&4-66). The initial minimum widths of the reserves range from 100 to 300 feet on each side of the applicable riparian area depending upon the type of area they are designed to protect, and the riparian reserves total approximately 2.6 million acres in the aggregate (Final SEIS at 2-39). The standards and guidelines for riparian reserves do not allow proposed projects to proceed within reserve boundaries unless they will serve the goal of restoring or maintaining the ecological function and processes of watersheds and aquatic ecosystems within natural disturbance criteria. The Assessment Team concluded that Alternative 9 as originally designed would work to reverse the trend of degradation and begin recovery of aquatic ecosystems on federal lands within the range of the owl (Final SEIS at 3&4-65). Our decision provides even greater protection to aquatic ecosystems.

Third, our decision will provide for habitat of an amount and distribution that is substantially likely to support the continued persistence of the northern spotted owl. The owl is particularly important to our analysis because its range defines the planning area for our decision, it is a threatened species under ESA, and more data exist concerning it than any other species in the planning area. Of the nearly 7.5 million acres of extant suitable spotted owl habitat on federal lands within the planning area, the selected alternative protects all but about fifteen percent from programmed timber harvest (Final SEIS at 3&4-222). Our decision also contains elements that provide for owl dispersal habitat, including the widest riparian reserves of those considered and allocation of managed late-successional areas,

which protect the activity centers of known owl pairs and resident single owls in the matrix (Final SEIS at 3&4-242).

We acknowledge that our decision does not prohibit all harvest of suitable northern spotted owl habitat. Approximately two and one-half percent of the extant amount of habitat likely will be harvested per decade in light of the matrix lands allocated under our decision. Some have opined that this level of harvest of owl habitat -- indeed, any level of harvest of owl habitat -- ought not be permitted and take the view that Alternative 9 inadequately supports the owl's continued persistence. We have considered carefully such views, and the data upon which they are based. While the results of some recent research call for a certain amount of caution, they do not compel a moratorium on all further harvest of suitable owl habitat (Final SEIS at 3&4-229 to 235). Our decision today reflects a conservative approach, allowing for a limited amount of harvest of owl habitat in matrix lands while protecting large reserve areas from programmed timber harvest.

There is one other ESA-listed species directly associated with late-successional and old-growth forests that exists in the planning area and deserves special mention: the marbled murrelet. Under our decision, less than ten percent of the more than 2.5 million acres of suitable murrelet nesting habitat is in the matrix (Final SEIS at 3&4-222). Even that habitat in the matrix will be protected from harvest as a late-successional reserve under our decision if determined to be occupied in mandatory pre-project surveys (Final SEIS at 2-28).

A variety of vertebrate species that use early-successional forests as primary habitat also exist in the planning area (Final SEIS at 3&4-203). Although our decision primarily provides standards and guidelines for management of habitat of species associated with late-successional forests, it is substantially likely to support the continued persistence of species that use early-successional habitat. The amount of early-successional forest in the planning area probably is greater now than at any time in the past (Final SEIS at 3&4-203). Our decision will provide for additional early-successional forest through allowance of harvest of some late-successional forest stands in the matrix.

Eighty-seven other vertebrate species, races, or groups were assessed in addition to the northern spotted owl and murrelet in the process leading up to this decision. The Assessment Team projected that, with just three exceptions, Alternative 9, as originally designed, would have roughly an 80-percent or greater likelihood of providing habitat to support stable populations of each of these vertebrates, either well-distributed when measured against their historic range on federal lands or with significant gaps in that range (Final SEIS at 3&4-174, 179, 184, 188 & 197). That there is a likelihood of gaps existing in species' historic distributions under our decision does not render the decision inconsistent with the fish and wildlife resource regulation, especially because most such gaps are already present.

Distribution cannot be evaluated on a monolithic scale for all species.

The three vertebrates that do not fit within the category described above are all amphibians: (1) the Columbia torrent salamander; (2) the Coastal and Olympic Peninsula populations of the Van Dyke's salamander; and (3) the Shasta salamander (Final SEIS at 3&4-174). The first two of these exist almost exclusively on non-federal land. Our decision meets the objective of the fish and wildlife resource regulation with respect to these species because, of the amount and distribution of habitat substantially likely to support their continued persistence on all lands, the decision provides a portion that is roughly commensurate with, or greater than, the fraction of the species' range in the planning area. The Shasta salamander is an extremely local endemic whose habitat sites are essentially fully protected by our decision. Given its limited range, there is no way our decision can minimize the risk of extirpation of this species from federal lands. In the context of the natural bounds on the range of this salamander and in light of research showing that the presence of rare local endemic species generally is consistent with diverse ecosystems (T. Lovejoy), we find there to be a substantial likelihood that our decision will provide for habitat to support the species' continued persistence.

b. Regional Guide and Forest Plan Amendments

Regional guide and forest plan amendments are used to keep the management direction up to date. The amendment process includes programmatic compliance with NEPA and other environmental laws. If a proposed amendment is a significant change in the regional guide/forest plan, an Environmental Impact Statement (EIS) must be prepared, as we have done with this decision. The Forest Service planning regulations include the same planning steps for approval of a "significant change" in a forest plan as for approval of the plan itself (except for roadless evaluations).

Congress did not address simultaneous multiple forest plan amendments in NFMA, nor did the 1979 planning regulations consider multiple amendments. In this decision the amendments are being made to existing forest plans in the range of the northern spotted owl. As we move into ecosystem approaches to environmental issues, especially plant and animal issues, it is likely that the multiple forest plan amendment approach will have to be used.

Commenters on the Draft SEIS stated that the "Draft SEIS violates the National Forest Management Act because amendments to existing plans are 'significant' amendments and the procedures of NFMA and the NEPA regulations, including seeking public input and participation, have not been completed." Final SEIS, Appendix F-111. As summarized in the Final SEIS response to the comment, the amendments are a significant change in the existing forest plans. The

requirements of NFMA as to notice and comment for the amendments were fully met through the Draft SEIS, public comment and the Final SEIS. The amendments were included in the Draft SEIS for public comment (see Chapters 2, 3&4 and Attachment B).

In the context of the ecosystem approach to the northern spotted owl and other old growth related species, all NFMA planning steps were conducted. There are some features of NFMA and the planning regulations' individual forest plan focus that will have to be completed at the time of forest plan revision. The suitable timber lands for the national forests within the range of the northern spotted owl will be controlled by the standards, guidelines and land allocations of Attachment A.

While this is the first time that "significant changes" to multiple forest plans have been done by a single ROD, the notice and comment requirements of NFMA have been fully complied with. All provisions of the planning regulations that could be dealt with at the scale of the range of the northern spotted owl were also fulfilled. To further delay examination of timber sales until each of the forest plans and accompanying EISs goes through further process to look at the same issues on a narrower area would clearly thwart Congress' multiple use mandate in NFMA.

3. Federal Land Policy and Management Act

The principles of multiple use and sustained yield have been applied in the development of this decision. This is evident by the designation of reserves where benefits to late-successional forest related species and uses are emphasized, and the designation of matrix lands where the economic and social benefits of timber harvest are emphasized on a sustainable basis. In addition, the designation of some adaptive management areas allows the development of innovative human uses of the forests that are compatible with wildlife habitat needs. The opportunity for utilization of resources from the lands under the standards and guidelines of this decision is in accordance with the principles of multiple use and sustained yield (see 43 U.S.C. Sec. 1712(c)(1)).

The lands included in the reserves under the selected alternative constrain, but do not exclude, timber use. Thinning or other silvicultural treatments inside late-successional reserves are subject to review by the Regional Ecosystem Office and approval by the RIEC to ensure that the treatments are beneficial to the creation of late-successional forest conditions. Because this use is not totally eliminated, this management decision will not be subject to the reporting requirement in 43 U.S.C. Sec. 1712(e)(2).

4. Oregon and California Lands Act

The management of the O&C lands is governed by a variety of statutes, including

the O&C Lands Act, FLPMA, the Endangered Species Act, and the Clean Water Act. The O&C Lands Act requires the Secretary of the Interior to manage O&C lands for permanent forest production; however, such management must also be in accord with sustained-yield principles. Further, that Act requires that management of O&C lands protect watersheds, regulate streamflow, provide for recreational facilities, and contribute to the economic stability of local communities and industries. The Act does not require the Secretary to harvest all old-growth timber or all commercial timber as rapidly as possible or according to any particular schedule. The Secretary has discretion to determine how to manage the forest on a sustained-yield basis that provides for permanency of timber production over a long-term period. The Secretary must necessarily make judgments, informed by as much information as possible, about what kind of management will lead to permanent forest production that satisfies the principle of sustained yield.

O&C lands must also be managed in accordance with other environmental laws such as the Endangered Species Act and the Clean Water Act. Some provisions of these laws take precedence over the O&C Lands Act. For instance, the Endangered Species Act (ESA) requires the Secretary to ensure that management of O&C lands will not likely result in jeopardy to listed species or destruction or adverse modification of critical habitat. The ESA directs the Secretary and all federal agencies to utilize their authorities to carry out programs for the conservation and recovery of listed species. Although several northern spotted owl recovery plans have been proposed, the Secretary has not yet adopted final recovery plans for either the northern spotted owl or the marbled murrelet. Alternative 9's late-successional and riparian reserve concepts are important building blocks in the development of recovery plans to achieve the conservation and recovery of those species.

One of the purposes of the Endangered Species Act is the preservation of ecosystems upon which endangered and threatened species depend. A forward-looking land management policy would require that federal lands be managed in a way to minimize the need to list species under the ESA. Additional species listings could have the effect of further limiting the O&C Lands Act's goals of achieving permanent forest production, which would contribute to the economic instability of local communities and industries. The O&C Lands Act ought not be interpreted in such a manner that limits the Secretary's ability to take steps now that would avoid future listings and additional disruptions.

Protection of watersheds and regulating streamflow are explicit purposes of forest production under the O&C Lands Act. Riparian reserves, including those established on O&C lands by this decision, are designed to restore and maintain aquatic ecosystem functions. Together with other components of the aquatic conservation strategy, riparian reserves will provide substantial watershed protection benefits. Riparian reserves will also help attain and maintain water

quality standards, a fundamental aspect of watershed protection. Both riparian reserves and late-successional reserves will help regulate streamflows, thus moderating peak streamflows and attendant adverse impacts to watersheds.

5. Endangered Species Act

Consultation on the preferred alternative in the Final SEIS was conducted with the Fish and Wildlife Service in accordance with Section 7 of the Endangered Species Act. The biological opinion of the Fish and Wildlife Service determined that implementation of the preferred alternative is not likely to jeopardize the continued existence or destroy or adversely modify the critical habitat of any listed species. The National Marine Fisheries Service (NMFS) has also concurred in the determination that the preferred alternative would not affect any of the listed anadromous fish species present in the planning area, meaning that section 7 consultation was not required. See Appendix G of the Final SEIS for more information.

This decision is intended to aid in the recovery of listed species and to avoid action that would cause any species to become listed under the Endangered Species Act.

6. Coastal Zone Management Act

Implementation of the preferred alternative is expected to meet or exceed the federal and state standards and policies adopted in federally approved, state coastal management programs and coastal nonpoint pollution control programs. Appropriate consultation will occur on subsequent plans and activities to ensure consistency under the Coastal Zone Management Act and Coastal Zone Act Reauthorization Amendments. In addition to the existing planning processes under Forest Service and BLM planning regulations, and NEPA analysis for planning and site-specific decisions, the preferred alternative includes provisions to ensure that subsequent federal actions will be consistent with statewide planning goals and local comprehensive plans. We make this finding based on the selected alternative's implementation framework and the commitment it provides to ensure appropriate consultation during subsequent planning and implementation.

7. Executive Order 11990 - Protection of Wetlands

The selected alternative complies with Executive Order 11990 by incorporating procedures and measures for identification, assessment and protection of wetlands. All practicable measures to minimize harm to wetlands will be implemented. The primary measures that ensure compliance include the designation of riparian reserves and key watersheds, the watershed analysis process, and watershed restoration. These measures ensure that wetlands on lands administered by the Forest Service and BLM within the range of the northern

spotted owl will be maintained as natural systems providing public health, safety, welfare, and other public interest values.

8. Clean Air Act

At the scale of a programmatic plan such as this, the overall level of activities proposed under this decision are not anticipated to degrade air quality or violate state implementation plans. This finding is based on information presented in the Final SEIS regarding the projected reduction in estimated aggregated annual emissions from activities under the preferred alternative compared to the 1985 to 1992 baseline. The large geographic scope and programmatic nature of the SEIS precluded quantification of impacts, a necessary component of conformity determinations under the Clean Air Act. Conformity determinations and more detailed air quality impact analyses will be made at subsequent levels of planning and analysis where emissions can be more accurately quantified and reasonably forecasted, and local impacts can be assessed.

9. Clean Water Act

Full implementation of the preferred alternative is expected to maintain and improve water quality. We base this finding on the extensive water quality protection provided by the preferred alternative's comprehensive watershed-based approach. The system of late-successional reserves and riparian reserves, watershed restoration, and the other components of the preferred alternative's aquatic conservation strategy provide a sound framework for meeting Clean Water Act requirements. The system of riparian reserves provide protection zones around streams, wetlands, and waterbodies minimizing the potential for sediment, temperature, and dissolved oxygen problems. The riparian reserves will contribute to protecting or restoring the physical, chemical, and biological integrity of waters of the United States, the major goal of the Clean Water Act. Analysis to support subsequent levels of planning and site-specific projects and implementation of monitoring and adaptive management will be required to demonstrate compliance with the Clean Water Act and state water quality standards.

10. Federal Advisory Committee Act (FACA)

In a recent ruling (Northwest Forest Resource Council v. Espy), the U.S. District Court for the District of Columbia found that the process for developing the FEMAT report had not complied fully with the requirements of the Federal Advisory Committee Act. In refusing to grant the requested relief that we be prohibited from using or relying on the FEMAT report, Judge Jackson also found that the injury caused by the violation of the Federal Advisory Committee Act did not warrant the draconian remedy of an outright prohibition on the use of the report itself -- a remedy sought by the industry plaintiffs that could have delayed for years

the President's efforts to establish a legally defensible forest management program for the Pacific northwest. This, in turn, would have guaranteed substantial additional disruptions for the timber-dependent communities that will be among the primary beneficiaries of a renewed timber sale program -- a result that is contrary to the President's stated goals of sustainable forest management and economic benefit to the region.

Since the decision, we have made every effort to ensure full and continuing compliance with the Federal Advisory Committee Act. One prominent feature of the implementation regime we contemplate for our decision is the thorough inclusion of many different communities and perspectives in long-term forest management in the region. We strongly believe that broadened participation will strengthen and improve forest management from an ecological, social and economic perspective. However, because of the imperatives of the Federal Advisory Committee Act, we have taken and will take the necessary steps to ensure that all outside participation in the forest management process will accord with the strictures of the Act.

In addition, we note that the extensive public participation in the development and review of these Standards and Guidelines reflected our continuing commitment to solicit and use the best available information in the formulation of this decision -- regardless of the source. We believe that the enormous public record that underscores our efforts has ensured that those who may have wanted to participate were provided the opportunity to do so. We took their contributions seriously and reviewed them closely. They improved our plan.

We therefore conclude that any defect that may have arguably occurred because of the earlier violation of FACA has been cured, and we are confident that the public interest in full participation has been well served.

IX. Implementation

A. Interagency Coordination

The implementation of this decision calls for a high level of coordination and cooperation among agencies. A formal procedure for interagency coordination has been created by a Memorandum of Understanding for Forest Ecosystem Management that has been entered into by the White House Office on Environmental Policy, Department of the Interior, Department of Agriculture, Department of Commerce and the Environmental Protection Agency (see Appendix E of the Final SEIS).

The Memorandum of Understanding created several coordinating groups, including the Interagency Steering Committee, Regional Interagency Executive Committee, and Regional Ecosystem Office. A detailed description of these groups is included in Attachment A, Section E, Implementation.

B. Planning and Analysis

This decision facilitates ecosystem management under the current statutory and regulatory framework by requiring a variety of assessments, analyses and other activities sometimes referred to as "planning", designed to address various components of ecosystem management. Legal requirements, including public participation, consultation, and environmental analysis, must be met prior to administrative decisions. The responsibility for implementing the decision made in this Record of Decision rests with the managers of the Forest Service and BLM units in the planning area.

C. Consultation and Coordination

Future consultation under the Endangered Species Act will emphasize an integrated ecosystem approach. This will include involving the Fish and Wildlife Service and the National Marine Fisheries Service when the land management agencies begin to develop their plans for a particular area so the views of consulting agencies can be made known. Actions proposed to implement this plan will undergo consultation, either formal or informal, as appropriate. Consultation for the northern spotted owl on activities that are consistent with the standards and guidelines of this decision and that would not result in "take" of a listed species is expected to be informal. If take would result, incidental take statements will be provided through formal consultation.

Concurrent coordination with the Environmental Protection Agency on water quality standards and beneficial use requirements of the Clean Water Act will minimize project impacts.

This decision provides a higher level of protection for American Indian trust resources on public lands than the plans that it amends, and does not impair or restrict the treaties or rights of tribes. Future analysis and planning efforts to implement this decision on lands administered by the BLM and Forest Service will comply with treaties and laws relating to American Indian off-reservation trust resources. The plan analyses will identify Indian trust resources that would be affected, and identify potential conflicts between proposed federal actions and treaty rights or tribal resources. Consultation on a government-to-government basis will be conducted early in the planning process with any affected tribes. Conflicts

will be resolved collaboratively with affected tribes involved in the planning process, consistently with the federal government's trust responsibilities.

D. Initial Implementation of this Decision

This decision sets forth a new way of managing BLM and FS lands. In addition to new land allocations, it requires new techniques of analysis, new decision-making forums, new kinds of interagency collaboration, new approaches to scientific oversight and monitoring, new survey procedures, new public participation strategies, and new standards and guidelines.

The implementation of this new way of doing business will proceed as quickly as possible. But it cannot be instantaneous. A transition period is needed to allow for procedures and analysis techniques to be developed; for training to occur; for budgets to reflect the new kind of work required; and for completion of the surveys, analyses and planning to support project proposals.

One choice is to stop all projects and activities until these new requirements are developed, funded, and completed. A better choice is to recognize a transition that provides for implementation of certain interim procedures in order to realize the goals and objectives of the management strategy while making project decisions with reasonable promptness that do not preclude long-term options or impair resources sought to be protected.

Toward this end, the following direction is adopted. The environmental effects of the first 2-1/2 years of implementation, as described above, are expected to vary little, if any, from those described in the Final SEIS. The effects of the proposed projects and activities will be disclosed through appropriate NEPA analyses.

1. Watershed Analysis - In the initial years of implementation, the process for watershed analysis is expected to evolve and become more consistent with the long-term goals described in the Final SEIS. However, some projects proposed for the first few years of implementation are in areas that require watershed analysis prior to approval of the projects (i.e., key watersheds, riparian reserves, and inventories of roadless areas). In fiscal years 1994-1996, watershed analysis done for these projects may be less detailed than analyses that are completed in later years. Regardless, analysis done during the initial years (FY 1994-1996) will comply with the following guidance:

- The goal of the analysis is to determine whether the proposed actions are consistent with the objectives of the forest plan.
- Existing information will be used to the greatest extent possible, with new

information collected, to the maximum extent practicable, to fill crucial data gaps.

- Analysis will address the entire watershed, even though some areas may be analyzed at a lower level of precision, and the analysis of issues may be prioritized.
- Information from the analysis will flow into the NEPA documentation for specific projects, and will be used where practicable to facilitate ESA and Clean Water Act compliance.
- Restoration opportunities will be identified.

As described in the Final SEIS, watershed analysis is an ongoing, iterative process. Watershed analyses will expand as appropriate to consider additional available information, changing conditions and potential effects associated with long-term management issues and needed actions.

2. Green Tree Retention Requirements - National forest timber sales already laid out at the time of the ROD may use the green tree retention requirements in the Draft SEIS if this eliminates the need to rework, redesign, or recruse a sale. All sales laid out after the date of this ROD will comply with green tree retention requirements in Attachment A.

3. Assessments for Late-Successional Reserves -- Projects and activities within late-successional reserves (including restoration, recreation, projects for public safety, thinning and salvage) may proceed in fiscal years 1994-96 using initial late-successional reserve assessments done at a level of detail sufficient to assess whether the activities are consistent with the objectives of the late-successional reserves.

E. Fiscal Year 1994 Watershed Restoration Program

Congress has allocated \$27 million in watershed restoration funding for fiscal year 1994. Projects implemented under this program will have had a "preliminary watershed restoration assessment" completed and considered prior to beginning construction. The preliminary watershed restoration assessment will identify restoration goals and provide a risk assessment showing that benefits outweigh the risks of proceeding with a project. Watershed restoration projects need not be completed prior to the initiation of other projects. After fiscal year 1994, watershed restoration will be based on watershed analysis and planning. As described in Appendix B of the Final SEIS, the magnitude of restoration needs will be based on watershed analysis. The implementation of the watershed restoration

program in fiscal year 1994 is consistent with the analysis of effects in the Final SEIS.

F. Monitoring

This decision includes the monitoring plan discussed in Attachment A, pages E-1 to E-12. Monitoring is an essential component of the selected alternative. It ensures that management actions meet the prescribed standards and guidelines and that they comply with applicable laws and policies. Monitoring will provide information to determine if the standards and guidelines are being followed (implementation monitoring, Attachment A, pp. E-6 to E-10), verify if they are achieving the desired results (effectiveness monitoring, Attachment A, pp. E-4 to E-6), and determine if underlying assumptions are sound (validation monitoring).

Information obtained through monitoring, together with research and other new information, will provide a basis for adaptive management changes to the selected alternative. In addition, the monitoring plan itself will not remain static, but will be evaluated periodically to ascertain whether the monitoring questions and standards remain relevant, and will be adjusted as appropriate.

Monitoring will be conducted at multiple levels and scales, ranging from site-specific projects to the planning area or region to allow localized information to be compiled and considered in a regional context. The monitoring plan provides standards that monitoring at any scale should meet in order to achieve this goal (page E-3 of Attachment A). Monitoring will be coordinated among agencies and organizations to enhance the effectiveness and usefulness of monitoring results.

Monitoring under the selected alternative will build on present monitoring efforts. Current monitoring plans will continue, where appropriate. Specific new monitoring protocols, criteria, goals, and reporting formats will also be developed.

G. Authority to Amend or Modify this Decision

This decision amends current National Forest and BLM district plans as described in this Record of Decision. Amendments of forest or district plans that would modify the standards and guidelines or land use allocations established by this Record of Decision will be coordinated through the Regional Interagency Executive Committee and the Regional Ecosystem Office established by the Memorandum of Understanding for Forest Ecosystem Management (see Appendix E of the Final SEIS). Although decisions concerning implementation or modification of these standards and guidelines are subject to review by these interagency groups, the Memorandum of Understanding for Forest Ecosystem Management acknowledges the line authorities of individual agencies.

X. Public Involvement

The issues surrounding the management of late-successional and old-growth forest ecosystems have been before the public and discussed for a number of years. Congress has held extensive hearings on these issues. A report entitled *Alternatives for Management of Late-Successional Forests of the Pacific Northwest* was prepared at the request of the Agriculture Committee and the Merchant Marine and Fisheries Committee of the U.S. House of Representatives in October 1991.

The Forest Service has completed forest plans for most of the national forests within the range of the northern spotted owl, and has prepared draft forest plans for the remaining forests. Additionally, scoping for these Forest Plans and the *Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide* included issues regarding management of late-successional and old-growth forests, and served to focus the public on the issues. The Forest Service more recently received extensive public comment on the *Final Environmental Impact Statement on Management for the Northern Spotted Owl in the National Forests*.

The Bureau of Land Management is in the process of preparing resource management plans for its districts in western Oregon, and has completed plans for the lands it administers in California within the range of the northern spotted owl. Scoping for these plans identified issues surrounding the management of late-successional and old-growth forest ecosystems. Between 1986 and 1992, the Bureau of Land Management conducted scoping and solicited and received public comments regarding these issues.

The Fish and Wildlife Service elicited comments when it proposed listing the northern spotted owl and marbled murrelet. It also held public hearings during the summer of 1991 on the proposed designation of critical habitat for the northern spotted owl, and has more recently held public meetings, hearings, and received comments on the *Recovery Plan for the Northern Spotted Owl - Draft*. During the spring of 1992, there was public comment and discussion in connection with the hearings conducted by the Endangered Species Committee ("the God Squad") on a proposed exemption to the Endangered Species Act.

President Clinton's Forest Conference served as a focal point to discuss the issues surrounding management of late-successional and old-growth forests on federal lands within the range of the northern spotted owl. At the conclusion of that conference, he directed the members of his Cabinet to prepare a comprehensive strategy for forest management and economic development. Following the Forest Conference, representatives of the Clinton administration held meetings with

interested parties to solicit their ideas. In addition, the Forest Ecosystem Management Assessment Team received and considered numerous submissions from interested groups and members of the public. The Forest Conference, subsequent meetings, and submissions served to confirm and specify the scope of the issues, potential effects, and appropriate analysis.

All of these efforts, including those of Congress and the relevant land and resource management agencies, coupled with the actions during and after the Forest Conference, have served to offer ample and continued opportunity for the public to identify the issues.

A. Public Comments on the Draft SEIS

The Notice of Availability for the Draft SEIS was published in the *Federal Register* on July 30, 1993 (58 FR 40444 - 40445) and in numerous papers of general circulation in Washington, Oregon, and California. The comment period closed October 28, 1993. Approximately 102,000 public comments were submitted during the three month public comment period on the Draft SEIS.

Public hearings were held in Redding, California; Salem, Oregon; and Olympia, Washington, September 27 to October 1, 1993. A total of 359 individuals presented oral comments.

B. Summary of the Comments Received

Approximately 10,000 comments were individually prepared -- some of them extensive and detailed. The rest were form or modified-form letters. The documents came from all 50 states and several foreign countries. They came from schools, small towns, big cities and rural areas. Most of the interest groups that are parties to the litigation that has resulted in the court injunctions halting the federal timber sale programs in the Pacific northwest also filed extensive substantive comments. Many people sent personal, emotional letters.

The distribution of comments demonstrates that the BLM and Forest Service proposal raised national interests. Approximately 40 percent of the comments came from east of the Mississippi River, 25 percent from California, 5 percent from Oregon, and 20 percent from Washington.

The comments indicated that the feelings and issues surrounding the management of the National Forests and the BLM-administered lands in the Pacific northwest and northern California are still intense and still reflect all sides of the issue. Many commenters wanted the preferred alternative (Alternative 9) prescriptions on timber harvest, thinning, and salvage in old-growth forests to be more restrictive. Others felt that the level of timber that could be produced under Alternative 9 was

far too low to support the people and communities in the region. The comments reflected a change in focus in the public discussion. In contrast to earlier plans to manage habitat for the northern spotted owl or other individual species, comments on this plan reflected concerns with the forest ecosystem as a whole.

Alternatives 1 and 9 were the focus of comments. Of those people who responded and specifically referred to Alternative 1, approximately 95 percent commented favorably on the management direction of that alternative, while the remaining 5 percent sought even more environmental protection. Most respondents who specifically addressed Alternative 9 either sought more environmental protection (45 percent) or wanted less environmental protection. Only 2 percent of people commenting on Alternative 9 said they liked that alternative.

C. Response to Comments on the Draft SEIS

Based on the comments received on the Draft SEIS, numerous changes and corrections were made to the Final SEIS. The key changes are identified at the beginning of each chapter and the appendices in the Final SEIS. Summaries of the comments on the Draft SEIS and responses to those comments appear in Appendix F of the Final SEIS. The following summary addresses some of the major concerns raised by the public and some of the litigating parties and provides brief responses to each.

1. **Concern:** Whether sufficient old-growth is being retained and whether the management regimes proposed can maintain or enhance the ecosystem. This concern was voiced uniformly by plaintiff groups in Portland Audubon Society v. Lujan, Lane County Audubon Society v. Jamison, and Seattle Audubon Society v. Moseley.

Response: Alternative 9, as proposed in the Draft SEIS, rated the third highest among the ten alternatives analyzed in terms of ecosystem quantity and quality (abundance, diversity, processes, functions, and connectivity). Conservation measures in Alternative 9 were strengthened in the Final SEIS by designating an additional 775,000 acres as reserves. These reserves included the addition of riparian reserve scenario 1 (additional protection of intermittent streams), known northern spotted owl activity centers, known species habitat, managed pair areas in eastern Washington and northern California, and the retention of late-successional fragments where little remains. Alternative 9 was not re-rated against other alternatives after the adoption of the changes reflected in the Final SEIS.

2. **Concern:** Whether the expected timber harvest volume resulting under Alternative 9 is balanced against the needs of the communities and the species involved. This concern was raised by the Association of O&C Counties, the

Northwest Forest Resources Council and numerous citizens.

Response: Implementation of Alternative 9 will provide the maximum economic opportunities for Forest Service and BLM lands within the conservation requirements of existing statutes and policies. Alternative 9 will provide sustainable timber harvests as well as vibrant old-growth ecosystems and adequate populations of fish, wildlife, and plants. As such it is the most "balanced" of all legally allowable alternatives.

3. Concern: Whether the economic and social analysis was sufficient.

Response: Many views were expressed in public comments on how to assess the economic and social impact of this decision, particularly in the assessment of indirect effects, affect of exports, and local vs. regional impacts. The Final SEIS presented an extensive discussion of the economic effects, displayed the information using several different views of the impacts, and disclosed its assumptions and methodology. The Final SEIS corrected an error in the economic analysis of the Draft SEIS, which affected the consideration of direct, indirect and induced employment effects.

4. Concern: Whether the role of non-federal lands was appropriately considered. Plaintiff groups including, the Portland Audubon Society, and Oregon Natural Resources Council noted this alleged deficiency in their comments.

Response: The current state of non-federal lands and possible future activities on non-federal lands were considered in the design of the alternatives, analysis of the environmental impacts of the alternatives, and the cumulative effects in the Final SEIS. This decision does not direct any changes in the management of non-federal lands. However, apart from this decision, the U.S. Fish and Wildlife Service is considering issuance of a proposed regulation under Section 4(d) of the ESA to address NSO habitat on non-federal land.

5. Concern: Whether the protection afforded in watersheds would result in degradation of water quality and the abundance and distribution of fish dependent on that quality. Plaintiff groups such as Lane County Audubon Society, Wilderness Society, Seattle Audubon Society, Oregon Natural Resources Council, and the Portland Audubon Society urged that 100 foot buffers be protected along intermittent streams.

Response: Protection of watersheds under Alternative 9 was increased between the Draft and Final SEIS to provide 100 foot reserves along intermittent streams outside Tier 1 key watersheds. This protection exceeds the Best Management Practices currently approved to meet Clean Water Act standards. The initial riparian reserves in Alternative 9 are consistent with or exceed other current

scientifically accepted strategies for riparian resource conservation.

6. Concern: Whether salvage or thinning should be allowed in reserves. This was also a concern of plaintiff groups, including particularly the Oregon Natural Resources Council, and the Wilderness Society among others.

Response: Alternative 9 as proposed in the Draft SEIS rated the third highest among the 10 alternatives analyzed in terms of ecosystem quantity and quality (abundance, diversity, processes, functions, and connectivity). This rating was partly based on the ability to manage late-successional reserves to maintain or enhance old-growth structure, diversity, and function. This type of management is especially important in the dry provinces and in young overstocked plantations, where some management can protect and enhance old-growth conditions. The Assessment Team found that "without restoration silviculture [which includes thinnings], late-successional conditions would be retarded in development." (Final SEIS, pp. 34-46). Silvicultural treatments are limited to those that will be beneficial to late-successional forest conditions. Salvage activities must be intended to prevent negative effects on late-successional habitat. Ecological Principles for Management of Late-Successional Forests was added to Attachment B of the Final SEIS and provides the rationale for management of these reserves.

7. Concern: Whether existing inventoried roadless areas were adequately protected. Plaintiff groups such as Seattle Audubon Society, Headwaters, and Lane County Audubon Society urged the preservation of these areas from timber harvesting. Oregon Natural Resources Council asked that such protection be extended to include any roadless area greater than 1,000 acres.

Response: The comprehensive system of withdrawn lands and reserved areas, along with the specified standards and guidelines, meets the need to protect the overall ecosystem while providing for other management opportunities. The standards and guidelines of this decision preclude road construction in unroaded portions of inventoried roadless areas within key watersheds, and require the preparation of watershed analyses prior to management activities in such roadless areas outside key watersheds.

8. Concern: Whether the adaptive management areas could provide adequate management through research and local involvement. Lane County Audubon Society, Wilderness Society, and Seattle Audubon Society in particular were concerned about these adaptive management areas and recommended that they be eliminated. Lane County Audubon Society suggested in the alternative that they be severely limited in scope and be given firm regulatory constraints.

Response: Plans for adaptive management areas will be developed with extensive public participation in compliance with laws governing public participation.

Monitoring will be conducted to help assure the objectives of each adaptive management area are accomplished. The adaptive management process will be used in these areas. Research will provide information needed to improve implementation. Also, the location and size of the adaptive management areas were designed so that any setbacks in these areas would not impede the success of the overall regional strategy.

9. Concern: Whether the uniqueness of northern California ecosystems was appropriately recognized.

Response: Public comments on the Draft SEIS objected to a broad application of a 180-year rotation in the matrix on lands administered by the Forest Service in northern California. The SEIS Team analytically compared the effects on forest structure and the number of acres in late-successional condition under the 180-year rotation with the rotations outlined in the draft forest plans. This analysis indicated little difference in the amount of acreage in each seral stage over time as a result of the 180-year rotation.

In the Final SEIS, the 180-year rotation for National Forests in California was dropped from Alternative 9 and replaced with the direction to use the rotations in the appropriate draft or final forest plans. These rotations vary in order to accommodate different forest types and scope of management objectives. This is the same approach taken in Alternative 9 regarding rotation lengths on other federal forest lands.

The 100-year rotation for hardwood forests under Alternative 9 was also dropped in deference to forest plan standards and guidelines. The forest plans do not include a regular harvest of hardwoods. Therefore, no rotation length is set and no hardwood volume is included in the calculation of probable sale quantity (PSQ).

10. Concern: Whether new information available on northern spotted owl population trends was considered. Plaintiff environmental groups, in particular, raised this issue.

Response: The most current information on northern spotted owl population trends has been incorporated into the analysis in the Final SEIS. This new information includes *Estimation of Vital Rates of the Northern Spotted Owl* by K. P. Burnham, D. R. Anderson and G. C. White, 1994, which is an update of *Demographic Analysis of Northern Spotted Owl Populations* by D. R. Anderson and K. P. Burnham, 1992.

Several features of this decision address the population concerns discussed in these analyses: (1) larger reserves, (2) standards and guidelines for the matrix that are beneficial to the northern spotted owl, and (3) managed late-successional areas

for known owl activity centers in the Washington Eastern Cascades and the California Cascades Provinces. The 1994 study report was included in Appendix J of the Final SEIS, and a lengthy discussion of the results and their implications was included in Chapter 3&4 of the Final SEIS.

In addition, a spatially-explicit model was run to simulate owl population dynamics for a sample of three of the SEIS alternatives, plus a no-harvest scenario, in order to explore possible northern spotted owl population response under a variety of demographic assumptions. The results generally support the conclusion that habitat conditions anticipated under this decision would provide for stable, well-distributed populations of northern spotted owls on federal lands over the short term as well as the long term. The modeling results are also presented in Appendix J3 of the Final SEIS.

11. Concern: The Northwest Forest Resources Council and other commenters suggested that additional alternatives based on the "constant change" theory of ecology be considered. In particular, they suggested a new alternative developed by Dr. Chad Oliver, of the University of Washington.

Response: The Final SEIS acknowledges that there is controversy in the scientific community regarding theories of ecosystem process and function. The Assessment Team discussed the more active approach to forest management with Dr. Oliver and others in formulating its alternatives. Each of the 10 alternatives that were considered in detail contain elements that are based on the constant change theory. The alternatives vary in the amount of acres allocated to reserves and to the matrix and in the degree of active management proposed in the various land allocations to achieve desired conditions. The Assessment Team decided that the need to provide late-successional and old-growth forest habitat would require a system of reserves on the federal lands. Early stages of forest succession are and will be well represented on non-federal ownerships. However, recognizing the uncertainty in current knowledge and the need to monitor, learn, and change, the selected alternative also relies on adaptive management and provides an opportunity in the matrix and particularly in adaptive management areas to test more aggressive landscape management approaches under the "constant change" theory. Given the limited amount of late-successional and old-growth forest presently within the range of the northern spotted owl at this time, it would not be prudent or reasonable to apply the active landscape management approaches suggested by the "constant change" theorists to the majority of the remaining late-successional and old-growth forest stands across the federal landscape.

D. Response to Comments on the Final SEIS

We have reviewed and considered all comments that were received during the 30-days following the Notice of Availability of the Final SEIS.

[SUMMARY RESPONSE TO MAJOR COMMENTS - TO BE COMPLETED]

XI. Review and Approval

A. Administrative Review

A decision by the Secretary of Agriculture is not subject to administrative appeal under the Forest Service regulations. A decision by the Secretary of the Interior is not subject to administrative appeal under BLM regulations. Therefore, this decision is the final agency action for the amendment of these land allocations, standards and guidelines into the applicable formal planning documents.

This decision does not constitute the final agency action for any timber sale or other project. Before a decision document for a timber sale or other project is authorized, applicable procedures must be complied with, including applicable project-level NEPA analysis and administrative appeal procedures.

B. Effective Date

This decision shall take effect 30 days after publication of notice in the Federal Register.

C. Administrative Record

Planning records documenting the preparation and review of the Standards and Guidelines are available for public review at the BLM Reading Room in Portland, Oregon. An index to the planning record has been prepared and is available upon request. We have incorporated by reference copies of existing Forest Service and BLM planning documents and environmental impact statements.

D. Signatures

By signing this Record of Decision together, we exercise our respective authorities over only those portions relevant to our authority.

Mike Espy, Secretary
U.S. Department of Agriculture

Dated:

Bruce Babbitt, Secretary
U.S. Department of the Interior

Dated:



Date: April 13, 1994

TO: SEIS Team

SUBJECT: Consideration of "Long Rotation" Option

I have been asked to comment on the extent to which the FEMAT team considered a "long rotation" option. Members of the FEMAT arranged for briefings by two proponents of alternate approaches that involved long rotation treatments. These were assumed to provide higher timber volumes than other options under consideration. However, it did not seem likely, at least to some of those present at the meetings, that such an approach would meet the requirements of law--particularly as related to late-successional species, with emphasis on northern spotted owls and marbled murrelets. Indeed, I specifically asked one of the proponents, Mr. Gus Kuehne, whether the approach would comply with the law. Mr. Kuehne replied that it would not, that the law would have to be changed. After that discussion, the decision was made not to pursue the option presented by Mr. Kuehne, since our instructions included compliance with existing law.

Dr. Chad Oliver presented his concepts to the FEMAT on how long-rotation silviculture could achieve the objectives being pursued and produce more timber. When asked if this approach--in the absence of significant old-growth reserves--would meet the requirements of law, Dr. Oliver said that that might be unlikely. Upon questioning, Dr. Oliver said that the approaches he suggested should not be used as an excuse to cut late-successional old-growth (LS/OG) stands if they were in short supply. However, it seemed clear to me and other members of FEMAT that unless significant amounts of such stands were cut over the next several decades, the cut levels would be even lower than in some of the more restrictive options under consideration. It was also clear to me that there was no evidence that "managed stands" could or would fill the ecological role of the extant late-successional/old-growth stands. It seemed likely that such an approach, given the current state of knowledge, would not hold up well under scrutiny for viability of LS/OG-associated species over the 100-year assessment criteria if LS/OG stands were cut. Conversely, I concluded that if sufficient LS/OG were retained until the suggested systems were proven to provide LS/OG habitat equal to such extant habitat, the timber cut levels would be lower than for other options being considered by FEMAT.



As a result, these alternatives were removed from consideration as full-blown alternatives. However, aspects of long-rotation silviculture and stand manipulation were partially incorporated into some options, including Alternative 9.

/s/ Jack Ward Thomas

JACK WARD THOMAS
Chief



United States Department of the Interior

OFFICE OF THE SOLICITOR

APR 14 1994

Memorandum

To: Assistant Secretary, Natural Resources and Environment
Department of Agriculture

Assistant Secretary, Land and Minerals Management
Department of the Interior

From: General Counsel, Department of Agriculture
Solicitor, Department of the Interior

Subject: Implementation of the President's Forest Plan and the
Federal Advisory Committee Act

In this memorandum, we consider the implications of the Federal Advisory Committee Act (FACA) on implementing the President's Forest Plan. We have concluded that whether FACA compliance will be required will depend on how the various groups are configured and function. For the most part the information describing the groups was obtained from the "Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl" (the "FSEIS").

This memorandum advises that some of the groups contemplated by the President's Forest Plan must be chartered under FACA if they are to function as set out in the FSEIS and related documents. We are not recommending that the groups discussed in this memorandum function in any particular way. We are indicating, however, that if they are to function as set forth in the FSEIS, they must be chartered under FACA. We are providing minimal operational advice and recommend, if the decision is made to charter any of the groups, that the federal employees responsible for managing the groups contact either Robert H. Moll in the Division of General Law, Office of the Solicitor, Department of the Interior ((202) 208-5216) or James P. Perry, Natural Resources Division, Office of the General Counsel, Department of Agriculture ((202) 720-7121) for more detailed operational advice.

In considering whether to carry out the President's Forest Plan in a way that will require chartering under FACA, it is important to consider the underlying reasons why FACA was passed. As noted by the Supreme Court, "FACA was enacted to cure specific ills, above all the wasteful expenditure of public funds for worthless committee meetings and biased proposals." Public Citizen v. U.S. Department of Justice, 491 U.S. 440, 453 (1989). In enacting FACA Congress defined the term "advisory committee" very broadly, to include "any committee, board, commission, council, conference,

panel, task force, or other similar group, or any subcommittee or other subgroup thereof . . . which is . . . established by statute or reorganization plan, or established or utilized by the President, or established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government . . ." (emphasis supplied). 5 U.S.C. § 3(2).

When a group is chartered under the FACA, a charter and justification statement must be prepared, approved by the Office of Management and Budget (pursuant to Executive Order 12838) and the General Services Administration (GSA), and filed with the Library of Congress. FACA requires that the advisory committee's membership be balanced in terms of the points of view represented and the functions to be performed by the committee. After a committee properly is chartered and its membership appointed, its operations must include the following: providing notice of its meetings in the Federal Register; holding open meetings (except in fairly limited circumstances); establishing an agenda for each meeting; taking minutes for each meeting; providing for public access, subject to the Freedom of Information Act, to all information considered by the committee; and, upon request, making transcripts of meetings available. The level of participation in the meetings by non-members can be shaped by the committee. A committee can provide that no public participation in the meetings by non-members occur although it is advisable to provide for at least some opportunity for public participation in a meeting such as by providing an opportunity for public comment in the final part of the meeting.

Under GSA guidelines and case law, advisory committees may have working groups or task forces convened for the purpose of gathering information or conducting research for the advisory committee. These groups, which are composed of one or more members of the advisory committee and may have as participants non-advisory committee members, need not be chartered separately, and need not meet in public so long as the product of their efforts is deliberated in a public meeting of the advisory committee. These groups may not advise federal officials directly; their work must be channeled through, and deliberated by, the advisory committee.

EXECUTIVE SUMMARY

This memorandum discusses ten groups anticipated by the President's Forest Plan.

We understand that the FSEIS and the Interagency Steering Committee (ISC) anticipate that the following groups will have non-federal members: Regional Interagency Executive Committee (RIEC); Provincial Interagency Executive Committees (PIEC); and Regional Community Economic Revitalization Team (R-CERT). Accordingly, these groups must be chartered pursuant to FACA.

We understand that the following groups will have non-federal members, but could be structured as task forces or working groups

of one of the chartered groups, and thus would not need independent charters: Adaptive Management Area Teams (AMAT); Watershed Analysis Groups; Late Successional Reserve Assessment Teams; and State Community Economic Revitalization Team (State CERT).

We understand that the ISC intends that the following groups will be staffed by federal employees only and thus will not need to be chartered: Regional Ecosystem Office (REO); the Research and Monitoring Committee (RMC); and the Multi-Agency Command (MAC).

We are aware that the Department of Agriculture has a limitation in its FY 1994 appropriations limiting the amount of appropriated funds that it can spend on its advisory committees. The Forest Service, however, would not be subject to this limitation because its funding is provided by the Interior and Related Agencies Appropriation Act. Other USDA activities by the Office of General Counsel and the Office of the Assistant Secretary for Natural Resources and the Environment would be subject to the restrictions. Consequently, the Department of Agriculture may be unable to contribute its full proportionate share of the costs of supporting the advisory committees and task forces during this fiscal year unless additional appropriation authority is provided by Congress.

DISCUSSION

Regional Interagency Executive Committee (RIEC)

This group "consists" of the Pacific Northwest federal agency heads of the Forest Service, the Bureau of Land Management, the U. S. Fish and Wildlife Service, the National Marine Fisheries Service, the Bureau of Indian Affairs, and the Environmental Protection Agency (EPA). "Participants" in the committee include the National Park Service, the States of Oregon, Washington, and California, and three tribal organizations. This committee must assure the successful implementation of the selected alternative from the FSEIS, and its "policy and planning decisions and recommendations will be made collaboratively". The RIEC will provide direction to the Regional Ecosystem Office, province teams [PIECs], and the Research and Monitoring Committee, and work with the Regional Community Economic Revitalization Team (R-CERT) to develop criteria and priorities for ecosystem investment opportunities. FSEIS p. 2-13.

RECOMMENDATION

As we understand how the FSEIS and the Interagency Steering Committee (ISC) intend the RIEC to operate, federal officials will meet with representatives of states and tribes to develop consensus recommendations for federal agency decision makers on managing the federal lands. Accordingly, this committee must comply with the provisions of FACA. In addition, while both federal and non-federal members of the FACA-chartered committee may participate in the collaborative process of making recommendations, all federal management decisions must

be made by the particular federal official with the delegated authority to make the decision.

Until the RIEC is organized under FACA all of its members must be federal employees. Meanwhile, as one means of informing themselves, the federal members of the RIEC may accept information from those non-federal individuals or entities intended eventually to become members of the chartered advisory committee through several means including written comments and in meetings with more than one individual for the purpose of exchanging facts or information or for obtaining the advice of individual attendees and not for the purpose of using the group to obtain consensus advice or recommendations. The federal officials also may meet with members of the public who are not intended by the FSEIS to be members of the RIEC in much the same manner as described for those that are intended to become members, as well as in public hearings. Finally, the federal officials also may meet with a group, at the group's request for the purpose of expressing the group's view, provided that the group is not used by the federal officials recurrently as a preferred source of advice or recommendations.

If the ISC decides to organize the RIEC under FACA, once it is chartered and its members appointed, the RIEC may operate as contemplated by the FSEIS.

Regional Ecosystem Office (REO)

This office provides staff support to facilitate RIEC decision making and prompt issue resolution in support of implementing the alternative selected from the FSEIS. FSEIS p. 2-14. We understand that the ISC intends that this office will be staffed only by federal employees.

RECOMMENDATION

So long as this office is staffed only by federal employees, there is no FACA compliance issue, unless it convenes a meeting or meetings with non-federal persons to obtain consensus advice.

Research and Monitoring Committee (RMC)

This committee, consisting of research scientists and managers from a variety of disciplines, will provide recommendations to the RIEC on the implementation of the selected alternative. FSEIS p. 2-14. We understand that the ISC intends that this office will be staffed only by federal employees.

RECOMMENDATION

So long as this office is staffed only by federal employees, there is no FACA compliance issue, unless it convenes a meeting or meetings with non-federal persons to obtain

consensus advice.

Provincial Interagency Executive Committees (PIEC)

These teams will consist of representatives of federal agencies, states, American Indian tribes, and "others", and will: "provide or coordinate analyses at the province level that can provide the basis for amendments to Forest and District Plans"; "provide monitoring reports for provinces"; and "encourage and facilitate information exchange and complimentary ecosystem management among federal and non-federal land managers". FSEIS p. 2-14.

RECOMMENDATION

As we understand how the FSEIS and the ISC intend the PIECs to operate, a group of federal, state, and local government officials, and members of the public will develop consensus advice and recommendations for federal agency decision makers on managing the federal lands. Accordingly, these committees must comply with FACA. In addition, while both federal and non-federal members of the FACA-chartered committee may participate in the collaborative process of making recommendations, all federal management decisions must be made by the particular federal official with the delegated authority to make the decision.

Our recommendations and advice for the RIEC apply to the PIECs as well.

Adaptive Management Area Teams (AMAT)

The FSEIS designates ten adaptive management areas, and the REO has proposed that each area have a team to implement the FSEIS alternative chosen. These experimental areas will provide opportunities for land managing and regulatory agencies, other government entities, non-governmental organizations, local groups, landowners, communities and individuals to work together to develop innovative management approaches. Participation needs and opportunities will vary from one issue to the next. FSEIS. p. 2-62.

RECOMMENDATION

We understand that the FSEIS and the ISC intend that the membership of these teams will include federal employees and non-federal individuals representing local governments, land owners, environmental organizations, and other members of the public. It also is intended that these groups will develop consensus advice and recommendations on federal land management issues, and provide that advice and recommendations to the federal land managers. Accordingly, these groups must comply with FACA. In addition, while both federal and non-federal members of the FACA-chartered committee may participate in the collaborative process of making

recommendations, all federal management decisions must be made by the particular federal official with the delegated authority to make the decision.

All members of these groups must be federal employees until the groups are organized pursuant to FACA. As an alternative to chartering these groups, if either the RIEC or PIECs are chartered pursuant to FACA, the AMATs could be organized as working groups or task forces that provide information and recommendations to the chartered group(s) and not directly to the federal decision makers. Under such a scenario, the chartered group must independently analyze and consider the information and recommendations from the task force, and not merely "rubber stamp" or pass them forward to the decision makers without review. Under this arrangement the operations of the AMATs will have to be monitored very closely to assure that the product of the AMATs is fully considered and debated by the PIECs or RIECs and that it is these latter groups that actually advise federal decision makers. Meanwhile, until there is compliance with FACA at some level, any advice, recommendations, etc., should be accepted from non-federal individuals or entities only in the manner described in the foregoing discussion of the RIEC.

Watershed Analysis Groups/Late Successional Reserve Assessment Teams

A watershed analysis will focus on collecting and compiling the information within a watershed that is essential for making sound management decisions. Any actions proposed as a result of the process will require NEPA documentation. The information from the watershed analyses will contribute to decision making at all levels. FSEIS p. 2-16. We understand that the Late Successional Reserve Assessments will use a process similar to the Watershed Analysis Groups. We also understand that non-federal individuals and entities will be involved in both processes.

RECOMMENDATION

As we understand the FSEIS and the intent of the ISC, these teams will be organized similar to the AMATS. Our recommendations and advice for the AMATS apply to these groups as well.

Multi-Agency Command (MAC)

Members of this committee include individuals designated by the Secretaries and Administrators who executed the Interagency Memorandum of Understanding for Economic Adjustment and Community Service (the parties). The committee is composed of one or more federal employees from the Office of Management and Budget, Small Business Administration, EPA, the Departments of Agriculture, Interior, Commerce, Labor, Housing and Urban Development, and the White House. The MAC,

under the guidance of the parties, has oversight and policy making authority and responsibilities, consistent with the authority delegated by each party.

RECOMMENDATION

So long as this office is staffed only by federal employees, there is no FACA compliance issue unless it convenes a meeting or meetings with non-federal persons to obtain consensus advice.

Regional Community Economic Revitalization Team (R-CERT)

The parties each designated one or more representatives to participate in the R-CERT. Other members include two representatives each from Oregon, Washington, and California. The Secretary of Agriculture and the Secretary of the Interior designate two of the federal representatives to serve as co-chairs. The R-CERT, under the guidance of the MAC and the parties, has decision making authority, consistent with federal law and the Strategic Plan. Matters unsettled or disputed within R-CERT are forwarded to the MAC for resolution.

RECOMMENDATION

We understand that this group is intended to function similar to the RIEC. Our advice and recommendations for the RIEC, therefore, are applicable to this group.

State Community Economic Revitalization Team (State CERT)

The parties and the governors of Oregon, Washington, and California have established State CERTS. Each State CERT includes representatives of each federal agency with program responsibility, representatives of the state government appointed by the governor, and representatives of local governments appointed by the governor with the approval of local government organizations. The chair of each State CERT was selected by its non-federal members. The State CERTs have authority to implement daily the Strategic and Implementation Plans, consistent with federal and state law. Matters unsettled or disputed within a State CERT are forwarded to the R-CERT for resolution.

RECOMMENDATION

If the federal government is obtaining advice from the State CERTS, all members of these groups must be federal employees until the groups are organized pursuant to FACA; except that if the R-CERT is chartered pursuant to FACA, the State CERTS could be organized as working groups or task forces that provide information and recommendations to the chartered group. In such an instance, our advice in the discussion of the AMATS regarding this scenario would apply to these groups.

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO: Mark Gaede
Jim Pipkin

FR: Katie McGinty

RE: Final Action on the Record of Decision

DATE: 13 April 1994

As the designees of both Secretaries, I am forwarding for your review the final text of the Record of Decision for the President's Forest Plan. In order to ensure timely execution of the final documents, we will proceed as follows.

1. Please provide any observations or comments on the ROD by noontime today to Will Stelle.

2. At 2 p.m. the final ROD with the attached Standards and Guidelines will be signed by the Secretary of Interior or his designee and forwarded directly to Mark Gaede at USDA.

3. Mark will forward the final decision documents to the appropriate USDA officials for final action and signature.

4. Mark will then contact Jim Pipkin's office, which will assume the responsibility for making the necessary copies and conveying them to Ellen Athas at the Department of Justice and to the representatives of the Members of the Interagency Steering Committee.

NOTE: We must strictly adhere to this schedule to meet the deadlines required for filing the plan tomorrow with the court. Your cooperation is greatly appreciated.

cc. w/o attachments

Will Stelle
Kim Schnoor
Jim Gilliland
Jim Lyons
Tom Collier
Lois Schiffer
Peter Coppelman

Thank you.
(The end... i.e. the beginning...)



United States
Department of
Agriculture

Office of the
General
Counsel

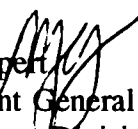
Washington,
D.C.
20250-1400

February 28, 1994

MEMORANDUM FOR JIM GILLILAND

JIM LYONS, MARK GAEDE
WILL STELLE
TOM TUCHMANN
JOHN LESHY, BOB BAUM, PATRICIA BENEKE
TOM COLLIER
LOIS SCHIFFER, PETER COPPLEMAN, ELLEN ATHAS
JACK WARD THOMAS

FROM:

Michael J. Gippert 
Deputy Assistant General Counsel
Natural Resources Division

SUBJECT:

Options for Interpreting the Viability Regulation 36 CFR 219.19 and
the Diversity Provision of NFMA

~~CONFIDENTIAL~~ - ATTORNEY CLIENT PRIVILEGED

Attached for your consideration is an outline of two alternative approaches to interpreting the "viability" component of the planning regulation 36 CFR 219.19 for the purposes of judicial review. These options have not been reviewed or approved by Assistant Secretary Lyons or Chief Thomas.

The first approach would integrate the viability regulation standard with the Endangered Species Act (ESA) and the Forest Service's Sensitive Species Policy by viewing the viability regulation as a requirement to proactively look for species of concern in planning assessments and prohibit selection of planning alternatives which would cause any species to fall below the "recovered" status of the ESA. This approach would set a conservation goal tied to the ESA, but clearly higher than required by ESA.

The second approach would set viability as a standard unrelated to the ESA or the Sensitive Species Policy, but rather as a certain level of likelihood of species persistence. Several exemptions from the strict regulatory language would need to be defined for species which could not meet the standard level of likelihood of species persistence, such as for species which are naturally rare, species with significant ranges on non-federal lands, and species which are not likely to be significantly affected by planning alternatives. An attempt could be made to avoid a strict numeric standard by offering some verbal formulation of the standard. This approach would emphasize a species-by-species approach to the viability standard.

DETERMINED TO BE AN ADMINISTRATIVE

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The Office of the General Counsel believes the first option would be most consistent with current Forest Service ecosystem efforts (PACFISH, California spotted owl, red-cockaded woodpecker, Sierra forest furbearers, etc.) and would be most advantageous for the implementation of ecosystem management. In addition, we believe the first option would be the most advantageous in litigation for the current Pacific NW Forest Plan.

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OPTIONS FOR DIVERSITY/VIABILITY

OPTION 1. Viability is interpreted for purposes of judicial review in a manner that integrates the National Forest Management Act (NFMA), Endangered Species Act (ESA), the FS/BLM/NPS/FWS/NMFS Memorandum of Understanding (1/25/94) and the Forest Service Sensitive Species Policy (FSM 2670) into a consistent proactive species conservation policy.

- A. Generally: The viability regulation 36 CFR 219.19 is interpreted for purposes of judicial review to set a regulatory prohibition against adopting plans (or standards and guidelines) that would cause a species to either qualify for listing or fall below the "recovered" status under ESA.
- B. Standard: There is no requirement in ESA for federal land management agencies to avoid listings or to follow ESA recovery plans, so Option 1 would clearly be a higher standard than ESA. Theoretically, the "avoiding listing" standard is equivalent to the "recovery" standard in ESA -- both use the listing criteria in ESA as the line. In practice, the "recovery" standard is probably higher than an "avoiding listing" standard, both of which are higher than the mandatory "jeopardy" (applies to federal actions) and "taking" standards (applies to federal and non-federal actions) of ESA.

Option 1 would make viability a clearly higher standard than the "recovery" standard, as it would apply prospectively, not just after the persistence of a species is in jeopardy, and would by definition require a level of protection equal to or above "recovery". The Forest Service should have a great deal of discretion to provide protections well above the "recovery" level to provide a margin of safety against unforeseen events.

By connecting the viability standard to ESA, Option 1 rationally uses ancillary principles of the ESA where appropriate. For example, the lack of knowledge about a species or uncertainty in outcomes would not by themselves violate the viability standard.

1. Consistency with FEMAT: *"There is some general level -- which likely differs by species and context -- at which security is low enough to warrant listing as threatened or endangered under the Endangered Species Act. There is a higher level -- again, which likely differs by species and context -- at which National Forest Management Act regulations for ensuring viability are met. Between these levels is a range of conditions, up to the level specified in the Act, in which recovery of a listed species should be met, although this may vary in*

accordance to a number of factors, such as endemism, land ownership, or other factors beside habitat" (FEMAT p. II-100).

- C. Textual Rationale for Option 1 Interpretation: For purposes of judicial review, the NFMA diversity provision (*"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, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan"*) can be read to be a separate statutory mandate to achieve a purpose similar to the purpose of the ESA (*"The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved"*). The language in 36 CFR 219.19 (*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.*) is treated as the converse of the ESA listing and recovery criteria (*likely to be in danger of extinction throughout all or a significant portion of its range*).
- D. Consistency with Ecosystem Management: Option 1 is generally the ecosystem management principle of looking ahead to avoid "trainwrecks" (ESA listings), rather than let ESA eliminate management options. Option 1 supports the implementation of ecosystem management based on the principle that the best way to avoid ESA listings is to maintain the ecosystems upon which species depend. By not focussing solely on the "federal forest planning area", this approach complements the ecosystem management approach to looking beyond administrative boundaries.
- E. Post-ROD Implementation: Under Option 1, the Forest Service Sensitive Species Policy would operate to maintain the viability standard in project decisions after the ROD. In fact, if the "species of concern" identified by the SEIS mitigation package were designated as Sensitive Species, the "Search and Manage" procedures would generally be triggered automatically by the Sensitive Species Policy (FSM 2672.4). Just as the subsequent ESA consultation required by the February 10, 1994 Biological Opinion, each project's biological evaluation will address the impact of the project on the viability of sensitive species, and the RIEC will track the welfare of the species throughout its range.
- F. Species With Ranges on Both Federal and Non-federal Lands: Although the text of the viability regulation is stated solely in terms of the "federal forest planning area", under Option 1 the status of a species on non-federal lands would be appropriate to consider. The appropriate contribution from Federal

lands could be evaluated with due consideration to the extent the species exists on federal lands.

1. Note: Option 1 might result in the land management agencies petitioning for the listing of species for which activities on non-federal lands were threatening a species to the point that activities on federal lands would be more constrained by the viability standard. The Commerce Clause authority of the ESA would then be invoked to regulate non-federal land and apportioning the "cost" of protecting the species.
- G. Vertebrates/Nonvertebrates: The distinction between vertebrates and nonvertebrates would not be so critical under Option 1, as nonvertebrates are already covered in the Sensitive Species Policy, the MOU and ESA. Like ESA, viability could still concentrate more on vertebrates, which generally have much more information available. The most stringent judicial review would probably apply to vertebrates because of the regulatory language in the regulation.
- H. Application to BLM Lands: Because Option 1 is tied to ESA standards, it should be more easily adopted by BLM than an entirely NFMA-based standard. Sufficient authority for its adoption might be found in ESA (*"It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered and threatened species and shall use their authorities in furtherance of the purpose of this Act."*), sustainability provisions of MUSYA, or prudent multiple-use management to avoid the management constraints of ESA listings. BLM's legal authority to enter into the January 25, 1994 MOU should be sufficient to adopt this viability standard. [The Solicitor's Office may want to consider the extent to which this interpretation is consistent with the O & C Act.]

Litigation Advantages of Option 1:

1. Option 1 sets a relatively clear standard that could be forcefully asserted in the ROD and which rationally relates viability to ESA and other Forest Service activities.
2. Option 1 would provide a rational reason for not relying upon any specific numerical standard from the Species Panel ratings, and a rational reason for not convening viability panels to rate the final Alternatives. Option 1 avoids making the species persistence ratings into more than can be supported by the scientific knowledge behind the ratings.

3. Option 1 would provide a rational grounding to considerations used in the FSEIS to discuss species with low species persistence ratings which do not appear in the text of the viability regulation. Similar to the ESA, the FSEIS suggests that low species persistence ratings may not be a violation for species that are naturally endemic, that do not have a significant proportion of their range on federal lands, that little information exists on their range or biological needs, or that the alternatives do not significantly differ in their effect.
4. Option 1 would be consistent or exceed previous interpretations by Judge Dwyer (*"Whatever plan is adopted, it cannot be one which the agency knows or believes will probably cause the extirpation of other native vertebrate species from the planning areas,"* Seattle Audubon Society v. Moseley, 798 F.Supp. 1473, 1490 (W.D. Wash. 1992).
5. Option 1 would be consistent with strategies undertaken to avoid listings under ESA -- California spotted owl and PACFISH. Option 1 is fully consistent with the Forest Service Sensitive Species Policy, which has been cited in the comments by plaintiffs in Seattle Audubon Society v. Lyons.

Litigation Disadvantages of Option 1:

1. Option 1 departs from the viability interpretation taken in the 1992 spotted owl ROD (which has been rejected in part by Judge Dwyer) and in other cases (which has been accepted in part by Judge Arnold, Judge Foreman and Judge Ashmankas). The adjustment in interpretation would need to be rationally explained in the ROD.
2. Judge Dwyer and the Ninth Circuit have rejected a government argument that the viability standard did not apply or was equivalent to the ESA standard once a species was listed under ESA (Seattle Audubon Society v. Evans, 771 F.Supp. 1081, 1093 (W.D. Wash. 11991), aff'd 952 F.2d 297, 301 (9th Cir. 1991)). Option 1 significantly differs from this prior argument, as it would read the viability standard as continuing to apply after a species is listed -- it would continue to prohibit decisions which would cause a species to not be considered "recovered" under ESA, a higher standard than "no jeopardy".
3. The administrative record (FEMAT and FSEIS) does not discuss viability in terms of avoiding listing, but rather in terms of likelihoods of species persistence. This could be explained by viewing the viability standard as a minimum regulatory requirement, not a goal to manage habitat so that each species is reduced to its minimum viable population level. The analysis of likelihoods of species persistence would be viewed as tools to compare alternatives and identify means of exceeding the regulatory minimum.

- Option 2. The viability standard is defined in terms of likelihoods of species persistence, not directly related to the standards of the Endangered Species Act.
- A. Standard: The viability standard is defined as prohibiting the adoption of plans (or standards and guidelines) which do not provide at least a substantial likelihood (or medium-high likelihood) of maintaining the continued interaction of individuals in current or eventually stabilized population(s) in the planning area. The textual description is intended to avoid a specific numeric species persistence rating, but the viability panel results will need to be used to prove the standard is met.
- B. Exemptions: The NW Forest Plan process demonstrates that a literal application of the regulation language is not possible, so certain rational exemptions must be created. Since these exemptions are not in the regulatory text, a rational argument will be needed to explain why they should be read into the regulation. The exemptions needed include:
1. For species that are naturally rare or locally endemic, a likelihood of species persistence lower than the standard is acceptable which is not significantly lower than the best alternative.
 2. For species with a significant portion of their range on non-federal lands, habitat must be provided within the planning area in an amount and distribution that provides an "appropriate contribution" toward an acceptable likelihood of species persistence throughout the range of the species.
 3. For species that do not interact in a metapopulation, gaps in distribution does not violate the viability standard.
 4. For species that do not reach the viability standard under any alternative, then the alternative selected may not be significantly lower than the most protective alternative.
 5. For species that little is known about or great uncertainty exists about their status or biological needs, some type of reduced standard is applicable.
 6. For various planning levels, an exemption is needed to allow consideration of habitat outside the "planning area" to meet the viability standard where the planning area is too small to support a viable population of the species.

- C. Definitions of regulatory terms: The interpretation of the regulatory terms "well-distributed", "insure its continued existence", "planning area", "viable populations", and "minimum number of reproductive individuals" will need to be made in the ROD, or the definitions used in the FEMAT species panels adopted.
- D. Vertebrates/Nonvertebrates: The viability regulation 36 CFR 219.19 applies only to native and desired non-native vertebrate species. The Forest Service Manual (FSM 2670) and USDA Regulation 9500-4 applies to all existing native and desired nonnative plants, fish, and wildlife species. Option 2 must either encompass nonvertebrate species, or take the position that the non-CFR direction is not judicially enforceable.
- E. Relationship to other laws: The viability standard remains a separate standard from ESA and the FS Sensitive Species Policy. Definitions and standards may be different than the ESA and different analysis is necessary to comply with ESA and with the viability standard.

Litigation Advantages of Option 2:

- 1. Option 2 (except for the exemptions) closely follows the regulatory text, and thus may receive greater deference from the court.
- 2. Option 2 is more consistent with the approach in the 1992 Spotted Owl ROD and discussions in FEMAT and the FSEIS, which portray the viability standard as a "high" likelihood of species persistence separate from the ESA standards.
- 3. Option 2 will have a strong basis in the record for which a ROD finding of viability for vertebrate species can be based.

Litigation Disadvantages of Option II:

- 1. It will be difficult to maintain a verbal formulation of the viability standard that is not equated to a specific numeric standard. Plaintiffs' comments have already argued that the "high" standard used in the 1992 Spotted Owl ROD equates with an 80% likelihood of Outcome A in the FEMAT ratings.
- 2. Option 2 requires the government to take a position on whether the viability standard applies to nonvertebrates. Unless the Forest Service Manual and USDA Department Regulation are changed, their similar language strongly suggests that the same standard applies to nonvertebrates as vertebrates. The government could take the position that the Forest Service Manual and USDA Department Regulation are not judicially enforceable, but that would still admit that the NW Plan does not meet these policies. Commentors on the SEIS have

raised the issue of compliance with the Forest Service Manual expansion of viability to nonvertebrate species.

3. Since the exemptions are not in the regulatory language, a strong rationale for the exemptions will need to be set forth in the ROD and will be points of contention in the litigation. A line of caselaw will need to develop around definitions and exemptions. Plaintiffs and Intervenors will likely produce experts on theories of conservation biology to contest the exemptions.
4. Future litigation on implementation of the NW Forest Plan will focus on how decisions made after watershed assessments and other analysis affect the species persistence ratings. The government will have to justify not reconvening new species panels, and may face results from panels convened by plaintiffs or submitted through declarations.
5. Option 2 will set the stage for litigation on PACFISH, other ecosystem management strategies, and litigation over other Forest Plans. Differences between the standards used in the species persistence ratings by FEMAT and these other strategies will need to be defended.

JUSTICE ASPT DRAFT

INTERPRETATION OF VIABILITY PROVISION: OPTION 3

The National Forest Management Act requires the Secretary of Agriculture to promulgate regulations to guide Forest Service planning that "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." 16 U.S.C. §1604(g)(3)(B). In accordance with this directive, the Secretary has promulgated the fish-and-wildlife-resource regulation, which provides: "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area." 36 C.F.R. § 219.19. The 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." Id.

The Secretary of Agriculture ^{has the obligation to} interprets this regulation as establishing a duty to manage and provide well-distributed habitat on National Forest System lands ~~such that there is at least a substantial likelihood that the habitat will support the~~ continued persistence of vertebrate species in the planning area,

6 ? (in current or eventually stabilized populations.) This is not a simple binary standard and is to be read in light of relevant ecological and biological factors, including the life history of species, the current amount and distribution of habitat, and the amount and distribution of species' ranges within the planning area. Such factors are especially important in evaluating distribution; e.g., habitat gaps in the species' historic range

do not necessarily mean that habitat is not well-distributed. The interpretation is framed in terms of likelihood because species viability involves making future projections concerning complex issues as to which absolute certainty is not possible.

In assessing compliance with this standard for a proposed planning decision, it is appropriate to consider other existing or reasonably foreseeable conservation measures. Species-specific assessments are not required, but are encouraged where feasible, especially with respect to species listed under the Endangered Species Act. Reasonable reliance also may be placed upon assessments of (1) other species whose habitat needs are essentially the same, (2) a group of species generally thought to perform the same or similar ecosystem functions, and/or (3) the continued integrity and function of ecosystem(s) in which the species is found. Given limitations in resources, knowledge, and data, and the dynamic and emergent nature of the relevant issues, flexibility is necessary in selecting methods to use to make a compliance determination in a particular situation.

Finally, by its own terms, the viability regulation applies only to vertebrate species in the planning area. Nevertheless, consistent with the statutory goal to provide for diversity and its long-standing conservation policy, the Forest Service is committed to meeting the same or a similar standard with respect to the non-vertebrate species in the planning area to the extent practicable. Dept. of Agric. Internal Reg. 9500-4 (Aug. 22, 1993); Forest Service Manual §§ 2670.12 & 2670.22.2.

PREPARED IN ANTICIPATION OF LITIGATION -- SUBJECT TO PRIVILEGE

1. Option 1 does not even loosely track regulatory language, and thus, poses a serious risk that it will receive little or no deference.

A. Interp of reg by agency ordinarily is entitled to great degree of deference UNLESS inconsistent with language

B. No deference granted in part for this reason in earlier round of owl litigation in 9th Circuit & J. Dwyer

C. While there may be sound policy reasons to commend Option 1 and the language of viability provision poses prickly problems, it will not do simply to ignore or seek to displace the language without going through notice-and-comment rulemaking

2. Option 1 represents a significant departure from prior agency statements concerning the viability provision, and thus, poses a serious risk that it will receive little or no deference.

A. Virtually all previous FS references discuss viability provision in terms of managing habitat to provide for continued persistence of a species in a well-distributed fashion, similar to the approach espoused in Option 3. See ROD on Management for the Northern Spotted Owl in the National Forests (March 3, 1992); USDA Record of Decision on Amendment to the Pacific Northwest Regional Guide (Dec. 12, 1988); USDA Decision on Review of Administrative Decision by Chief of the Forest Service related to the Administrative Appeal of the Region 6 Regional Guide and EIS (Mar. 8, 1985).

B. References in current planning effort are similar, including those made by the Forest Conference Ex. Committee. Statement of Mission from Forest Conference Executive Committee to Forest Conference Inter-agency Working Groups at iv ("In addressing biological diversity you should . . . develop alternatives for long-term management that [provide for] maintenance and/or restoration of habitat conditions to support viable populations, well-distributed across their current ranges"); see also FSEIS Glossary at 18 & FEMAT Report at IX-39

C. Abrupt shift at last minute is esp. problematic b/c:

1) 9th Circuit & J. Dwyer failed to give deference to another FS interp of NFMA conservation duties primarily because it was found to be at odds with previous practice

2) B/c interp presented for first time in ROD, no opportunity for public to provide comments prior to adoption

3. Option 1 is inconsistent with framework of sensitive species policy as set forth in Forest Service Manual, another factor that undermines deference to agency interpretation.

A. FSM directs FS to "[d]evelop and implement management practices to ensure that species do not become threatened or endangered because of Forest Service actions" and in next subsection, directs FS to "[m]aintain viable populations of all native and desired nonnative wildlife, fish, and plant species in habitats distributed throughout their geographic range on National Forest System lands," a rough approximation of language of viability provision

B. FSM thus contemplates that avoidance of listing (Option 1) and viability standard are two distinct standards

C. Attempt to conflate the two is susceptible to argument that FS is trying to avoid compliance w/ latter

4. The legislative and regulatory history better supports Option 3 vis-a-vis Option 1.

A. To extent Option 1 is premised on interp calling for avoidance of species extirpation, such language was explicitly considered in draft of section 219.19 and rejected in final version. Minutes of COS (Sept. 21-23, 1977).

B. NFMA regulations were originally promulgated and amended well after initial passage of ESA, and yet, neither version of section 219.19 makes reference to ESA (or sensitive species policy, for that matter)

5. Option 3 provides much better fit with current record.

A. Results of FEMAT process will form key segment of record upon which finding of compliance with viability provision will have to be built in ROD and litigation

B. Panel assessments framed in terms of whether habitat on federal land is adequate under each alternative to support stable species population at varying population distributions. FEMAT Report at IV-42 - IV-45.

C. Assessments consistent with Option 3

6. Option 1 is more of a purpose than it is a standard.

A. Option 1 does not indicate extent to which FS must go to accomplish objective of avoiding listing or extirpation or degree of certainty that must be shown to satisfy objective

B. Opens up FS to charge that interp is veiled attempt to avoid constraint on discretion in viability provision

C. Characterizing Option 1 as purpose nevertheless may provide a way to meld it with Option 3; FS could frame it as one of purposes to be served by standard reflected in Option 3

7. It is better to have a higher general standard that tracks the language of the viability provision and previous agency statements and provide for flexibility in its application than it is to set the standard at what essentially amounts to a "lowest common denominator."

A. Part of strategy behind Option 3 is to provide for flexibility in application of viability provision on basis of factors consistent with its purposes, rather than attempting to set a standard that likely will be accorded little or no deference so as to risk leaving an interpretive vacuum for litigants, and ultimately, the Court, to fill

B. Thus, in this scenario, certain species received FEMAT viability assessment scores that, on their face, would seem not to meet "substantial likelihood" standard of Option 3, but flexibility sufficient to support finding of compliance re: such species should exist given following factors:

1) agency accorded great deference in implementation

and application of own regulations, esp. in areas of technical or scientific complexity

2) "arbitrary and capricious" legal standard is applied to factual findings of an agency

3) J. Dwyer has stated that implementation of NFMA conservation duties can and should rely upon "common sense"

4) Use of rather vague term "substantial" in standard that allows for a range of values to fit within its parameters given species-specific factors

5) FEMAT's statement that "well-distributed" must be evaluated on a species-specific basis; and

6) other relevant ecological and biological factors (e.g., Lovejoy's point about rarity of certain species being natural in a diverse and well-functioning ecosystem)

8. To the extent Option 1 can be construed as a standard, it is either virtually "toothless" or extremely stringent.

A. Framing Option 1 as simply requiring agency to avoid causing listing under ESA essentially is "toothless" b/c:

1) In one sense, only way to show violation is to demonstrate that species has been (or is about to be) listed

2) Once species is listed, Option 1 is defined in essentially same terms as agency's ESA duties, practical effect of which is to make viability provision "disappear" upon listing, a position that is perilously close to interp FS proffered in 1991 that Judge Dwyer & 9th Circuit soundly rejected

B. To avoid "toothless" claim may force statement that viability standard is "higher" than ESA standards (language in Option 1 refers to "maintaining species above 'recovered' status under ESA")

1) Implications of pronouncement that viability standard is higher than ESA standards for all species, whether listed or not, may be difficult to contain

2) While "recovery" formulation in Option 1 makes standard seem more substantial, in practice FWS has not listed every species that is not "above recovery," and terms can be expected to work poorly because, by definition a species must have been listed to become "recovered" -- which occurs after "danger of extinction" in ESA's structure, not before

3) Little or no administrative interpretation of how recovery would be defined or identified for species that are not now currently listed

9. There are significant potential problems with explicitly relating the viability standard to ESA standards.

A. Several fundamental differences b/w ESA standards and the basic thrust of the viability provision, incl:

1) ESA encompasses all lands, not just federal lands

2) ESA standards revolve more about populations, while viability provision speaks in terms of providing habitat

B. Several advantages to keeping standards distinct, as Option 3 would do, and significant potential problems with trying explicitly to relate them to each other, as Option 1 does

1) Much more difficult to assess population dynamics than it is to assess habitats

2) Direct linkage may lead to claims that viability provision is automatically breached when species is listed or soon to be (e.g., expected imminent listings of fish stocks may be used to claim prima facie evidence of violation)

3) FWS has committed to making listing decisions on some 400 Category 1 species over next four years, most of which can be expected to be listed

C. To suggest that viability standard is "higher" than ESA standards means that, as practical matter, getting a no-jeopardy opinion cannot be expected to provide much "cover" for a determination of compliance with the viability provision and will be characterized as the absolute minimum that the agencies have to demonstrate to meet their viability obligations concerning listed species.

D. Explicitly linking the viability standard to ESA may have the practical effect of shifting authority regarding compliance determinations away from FS and BLM to FWS and NMFS, the expert agencies on ESA compliance (and hence, by logical extension, on what is required to prevent listing)

E. Conversely, if FS and BLM believe they will have first opportunity to make biological determinations on what is required for compliance, this in effect takes listing determination away from FWS & NMFS, which is certainly not what Congress intended in ESA, and would create a distinct possibility of conflicting agency determinations

F. To avoid foregoing problems, Option 3:

1) takes position that, while standards are related and overlap to an extent, they have different foci, and thus, can be shown to be satisfied in different ways

2) makes no claim about which one is higher or lower necessarily than the other (apples and oranges); and

3) preserves ability to have compliance w/ one used to bolster and complement a finding of compliance with the other

10. Contrary to the implications in OGC's paper, Option 3 does not contain a requirement to assess viability for every species or to base compliance determination upon FEMAT-type process.

A. Most of OGC's critique of Option 3 is a "straw person"; that is, it erroneously assumes that Option 3 calls for a process similar to the one that FEMAT employed in making a compliance determination

B. But substance of viability provision standard is separate from assumptions and analyses upon which decision-maker may rely in finding compliance; and the latter sticky procedural issues are present regardless of the substantive std chosen

C. To clarify, Option 3 does not contain a requirement to assess viability for every species; instead, it provides that, in making a finding that a proposed action satisfies viability provision, a decision-maker may rely upon an assessment of likely effects of the proposed action on:

1) other species also associated with the same essential kind of habitat;

2) a group of species generally thought to perform the same or similar functions within the ecosystem; and/or

3) an applicable ecosystem.

D. Approach is consistent with discretion Judge Dwyer indicated he would provide to the Forest Service concerning the method it would select for assessing compliance with the viability provision

11. Option 3 is more consistent with the concept of ecosystem management.

A. Option 1 evinces fundamental focus on individual species, given that it revolves around listing under ESA and sensitive species policy

B. Option 3, on other hand, explicitly provides that a finding of compliance with viability provision can be premised, at least in part, on an assessment of basic ecosystem functions, as was done by FEMAT, and also explicitly applies to all species in planning area

C. Option 3 therefore consistent with ecosystem approach & J. Dwyer's statement that NFMA "requires planning for the entire biological community -- not for one species alone."

12. As practical matter, adoption of Option 1 might have unintended consequence of making judicially enforceable those policy pronouncements upon which it is based.

A. Option 1 might give rise to argument that, if viability provision is based on sensitive species policy direction in FSM and/or MOU, then elements of those policy statements should be judicially enforceable

B. Premising interp on sensitive species policy is esp. problematic given FS's relative lack of compliance w/ policy in past, thereby undermining credibility of interp and providing plaintiffs with lots of ammunition to present in Court

(iv) It is reasonable to expect overall multiple-use objectives otherwise be better attained.

(b) The sale schedule of the management alternative selected in accordance with § 219.12 provides the allowable sale quantity for the first planning period.

§ 219.17 Evaluation of roadless areas.

(a) Unless otherwise provided by law, roadless areas within the National Forest System shall be evaluated and considered for recommendation as potential wilderness areas during the forest planning process, as provided in paragraphs (a) (1) and (2) of this section.

(1) During analysis of the management situation, the following areas shall be subject to evaluation:

(i) Roadless areas including those previously inventoried in the second roadless area review and evaluation (RARE II), in a unit plan, or in a forest plan, which remain essentially roadless and undeveloped, and which have not yet been designated as wilderness or for nowilderness uses by law. In addition, other essentially roadless areas may be subject to evaluation at the discretion of the Forest Supervisor.

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;

(iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the President.

(2) For each area subject to evaluation under paragraph (a)(1) of this section, the determination of the significant resource issues, which in turn affect the detail and scope of evaluation required by the Forest Service, shall be developed with public participation. As a minimum, the evaluation shall include consideration of:

(i) The values of the area as wilderness.

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, nonconforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

47 FR 43037, Sept. 30, 1982, as amended at 48 FR 40383, Sept. 7, 1983

§ 219.18 Wilderness management.

Forest planning shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of 36 CFR part 293. In particular, plans shall—

(a) Provide for limiting and distributing visitor use of specific areas in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(b) Evaluate the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas and provide for such measures when appropriate.

§ 219.19 Fish and wildlife resource.

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.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a)(1) through (a)(7) of this section.

(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of

§ 219.20

animal population trends of the management indicator species.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of extirpated species.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.

(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

§ 219.20 Grazing resource.

In forest planning, the suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species shall be determined as provided in paragraphs (a) and (b) of this section. Lands so identified shall be managed in accordance with direction established in forest plans.

(a) Lands suitable for grazing and browsing shall be identified and their condition and trend shall be determined. The present and potential supply of forage for livestock, wild and free-roaming horses and burros, and the capability of these lands to produce suitable food and cover for selected wildlife species shall be estimated. The use of forage by grazing and browsing animals will be estimated.

36 CFR Ch. II (7-1-93 Edition)

Lands in less than satisfactory condition shall be identified and appropriate action planned for their restoration.

(b) Alternative range management prescriptions shall consider grazing systems and the facilities necessary to implement them; land treatment and vegetation manipulation practices; and evaluation of pest problems; possible conflict or beneficial interactions among livestock, wild free-roaming horses and burros and wild animal populations, and methods of regulating these; direction for rehabilitation of ranges in unsatisfactory condition; and comparative cost efficiency of the prescriptions.

§ 219.21 Recreation resource.

To the degree consistent with needs and demands for all major resources, a broad spectrum of forest and rangeland related outdoor recreation opportunities shall be provided for in each alternative. Planning activities to achieve this shall be in accordance with national and regional direction and procedural requirements of paragraphs (a) through (g) of this section.

(a) Forest planning shall identify—

(1) The physical and biological characteristics that make land suitable for recreation opportunities;

(2) The recreational preferences of user groups and the settings needed to provide quality recreation opportunities; and

(3) Recreation opportunities on the National Forest System lands.

(b) The supply of developed recreational facilities in the area of National Forest influence shall be appraised for adequacy to meet present and future demands.

(c) Planning alternatives shall include consideration of establishment of physical facilities, regulation of use and recreation opportunities responsive to current and anticipated user demands.

(d) In formulation and analysis of alternatives as specified in § 219.12 (c) and (g), interactions among recreation opportunities and other multiple uses shall be examined. This examination shall consider the impacts of the proposed recreation activities on other

Forest Service, USDA

uses and values and the impact of other uses and activities associated with them on recreation opportunities, and quality of experience.

(e) Formulation and evaluation of alternatives under paragraphs (c) and (d) of this section shall be coordinated to the extent feasible with proposed recreation activities of and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(f) The visual resource shall be inventoried and evaluated as an integral part of evaluating alternatives in the forest planning process, addressing both the landscape's attractiveness and the public's visual expectation. Management prescriptions for definitive land areas of forest shall include visual quality objectives.

(g) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflict with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR part 219 of this chapter, classify areas as to whether or not off-road vehicle use may be permitted.

§ 219.22 Mineral resource.

Mineral exploration and development in the planning area shall be considered in the management of renewable resources. The following shall be recognized to the extent practicable in forest planning:

(a) Active mines within the area of land covered by the forest plan;

(b) Outstanding or reserved mineral rights;

(c) The probable occurrence of various minerals, including locatable, leasable, and common variety;

(d) The potential for future mineral development and potential need for withdrawal of areas from development;

Torpor - A state of being dormant or inactive.

Total Suspended Particulates (TSP) - A broad category of particulate matter that includes essentially all solid or liquid particles in the ambient air. The Environmental Protection Agency previously recognized TSP as a criteria pollutant, but in 1987 the standard was revised to cover only particulate matter less than 10 micrometers in size (PM10).

Township - (See Quarter Township)

Ultramafic - Dark-colored igneous rocks composed of minerals which are enriched in iron and magnesium. (See Serpentine/peridotite.) FEMAT

Unconsolidated Deposits - Sediments that are loosely arranged, with particles that are not cemented together. Includes alluvial, glacial, volcanic, and landslide deposits. FEMAT

Underburning - Prescribed burning of the forest floor or understory for botanical or wildlife habitat objectives, hazard reduction, or silvicultural objectives. FEMAT

Understory - The trees and other woody species growing under the canopies of larger adjacent trees and other woody growth. FEMAT

Uneven-aged Management - A combination of actions that simultaneously maintains continuous tall forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of diameter or age classes. Cutting methods that develop and maintain uneven-aged stands are single-tree selection and group selection. FEMAT

Ungulate - A hoofed mammal.

Unstable and Potentially Unstable Lands - The unstable land component of the Riparian Reserves includes lands which are prone to mass failure under natural conditions (unroaded, unharvested), and where human activities such as road construction and timber harvest are likely to increase landslide distribution in time and space, to the point where this change is likely to modify natural geomorphic and hydrologic processes (such as the delivery of sediment and wood to channels), which will in turn affect aquatic ecosystems including streams, springs, seeps, wetlands, and marshes.

The following types of land are included: 1) active landslides and those which exhibit sound evidence of movement in the past 400 years; 2) inner gorges; 3) those lands identified as unstable by geologic investigations, using the criteria stated above (includes lands already classified by the Forest Service as unsuited for programmed timber harvest due to irreversible soil loss, and by the BLM as nonsuitable fragile lands). Highly erodible landsä (i.e., lands prone to sheet and rill erosion) are not included in this definition. FEMAT

Uplift - A structurally high area in the earth's crust, produced by positive movements that raise or upthrust the rocks. FEMAT

Viability - The ability of a wildlife or plant population to maintain sufficient size so that it persists over time in spite of normal fluctuations in numbers; usually expressed as a probability of maintaining a specific population for a specified period. FEMAT

Viable Population - A wildlife or plant population that contains an adequate number of reproductive individuals appropriately distributed on the planning area to ensure the long-term existence of the species. FEMAT

May 12, 1993

**MEMORANDUM FOR CHIEF OF THE FOREST SERVICE
DIRECTOR OF THE BUREAU OF LAND MANAGEMENT**

FROM:

Mike Espy 
Secretary of Agriculture

Bruce Babbitt 
Secretary of the Interior

SUBJECT:**SEIS on Forest Conference Alternatives**

Since the Forest Conference, three inter-agency working groups have been convened to evaluate options for implementing policies discussed at the Forest Conference. The Ecosystem Management Assessment working group and the Labor and the Community Assistance working group will be submitting their reports about June 1.

To better assess the environmental effects of the options prepared by the Ecosystem Management Assessment working group and provide for additional public participation in this process, we are directing the Forest Service and Bureau of Land Management to immediately begin preparing a draft supplemental environmental impact statement (SEIS) on the options being developed by the Ecosystem Management Assessment working group. Among other things, the SEIS will supplement the Forest Service Final Environmental Impact Statement on Management for the Northern Spotted Owl in the National Forests (January 1992).

The Forest Service and Bureau of Land Management will be joint lead agencies on this SEIS, with the National Park Service, Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency and other appropriate agencies as cooperating agencies. The interdisciplinary team will be led by Robert Jacobs of the Forest Service, with members from the Forest Service, Bureau of Land Management, and other agencies as appropriate.

The SEIS will encompass the consideration of (1) amendments to Forest Service Regional Guides and Forest Plans for maintenance of viability of old growth related species within the range of the northern spotted owl and (2) standards for maintenance of viability of old-growth related species within the range of the northern spotted owl for use in Bureau of Land Management Resource and Management Plans.

The SEIS will take an ecosystem approach to forest management and discuss those issues outlined in the Statement of Mission for the Ecosystem Management Assessment

EXHIBIT # B

May 7, 1993

TO: FOREST CONFERENCE INTER-AGENCY WORKING GROUPS
 Ecosystem Management Assessment
 Labor and Community Assistance
 Agency Coordination

FROM: FOREST CONFERENCE EXECUTIVE COMMITTEE
 Department of Agriculture
 Department of Interior
 Department of Labor
 Department of Commerce
 Environmental Protection Agency
 Office on Environmental Policy
 Office of Science and Technology Policy
 National Economic Council
 Council of Economic Advisors
 Office of Management and Budget

RE: STATEMENT OF MISSION

Together, we are working to fulfill President Clinton's mandate to produce a plan to break the gridlock over federal forest management that has created so much confusion and controversy in the Pacific Northwest and northern California. As well, that mandate means providing for economic diversification and new economic opportunities in the region. As you enter into the critical phase of your work reviewing options and policy, this mission statement should be used to focus and coordinate your efforts. It includes overall guidance and specific guidance for each team.

BACKGROUND

President Clinton posed the fundamental question we face when he opened the Forest Conference in Portland:

"How can we achieve a balanced and comprehensive policy that recognizes the importance of the forests and timber to the economy and jobs of this region, and how can we preserve our precious old-growth forests, which are part of our national heritage and that, once destroyed, can never be replaced?"

And, he said, "the most important thing we can do is to admit, all of us to each other, that there are no simple or easy answers. This is not about choosing between jobs and the environment, but about recognizing the importance of both and recognizing that virtually everyone here and everyone in this region cares about both."

Your conservation and management assessment should cover those lands managed by the Forest Service, the Bureau of Land Management, and the National Park Service that are within the current range of the northern spotted owl, drawing as you have on personnel from those agencies and assistance from the Fish and Wildlife Service, the National Marine Fisheries Service and the Environmental Protection Agency. To achieve similar treatment on all federal lands involved here, you should apply the "viability standard" to the BLM lands.

In addressing biological diversity you should not limit your consideration to any one species and, to the extent possible, you should develop alternatives for long-term management that meet the following objectives:

- maintenance and/or restoration of habitat conditions for the northern spotted owl and the marbled murrelet that will provide for viability of each species -- for the owl, well distributed along its current range on federal lands and for the murrelet so far as nesting habitat is concerned;
- maintenance and/or restoration of habitat conditions to support viable populations, well-distributed across their current ranges, of species known (or reasonably expected) to be associated with old-growth forest conditions;
- maintenance and/or restoration of spawning and rearing habitat on Forest Service, Bureau of Land Management, and National Park Service lands to support recovery and maintenance of viable populations of anadromous fish species and stocks and other fish species and stocks considered "sensitive" or "at risk" by land management agencies, or listed under the Endangered Species Act; and,
- maintenance and/or creation of a connected or interactive old-growth forest ecosystem on the federal lands within the region under consideration.

Your assessment should include alternatives that range from a medium to a very high probability of insuring the viability of species. The analysis should include an assessment of current agency programs based on Forest Service plans (including the final draft recovery plan for the northern spotted owl) for the National Forests and the BLM's revised preferred alternative for its lands.

In your assessment, you should also carefully consider the suggestions for forest management from the recent Forest Conference in Portland. Although we know that it will be difficult to move beyond the possibilities considered in recent analysis, you should apply your most creative abilities to suggest policies that might move us forward on these difficult issues. You also should address short-term timber sale possibilities as well as longer term options.

Finally, your assessment should be subject to peer review by appropriately credentialed reviewers.



United States
Department of
Agriculture

Forest Service

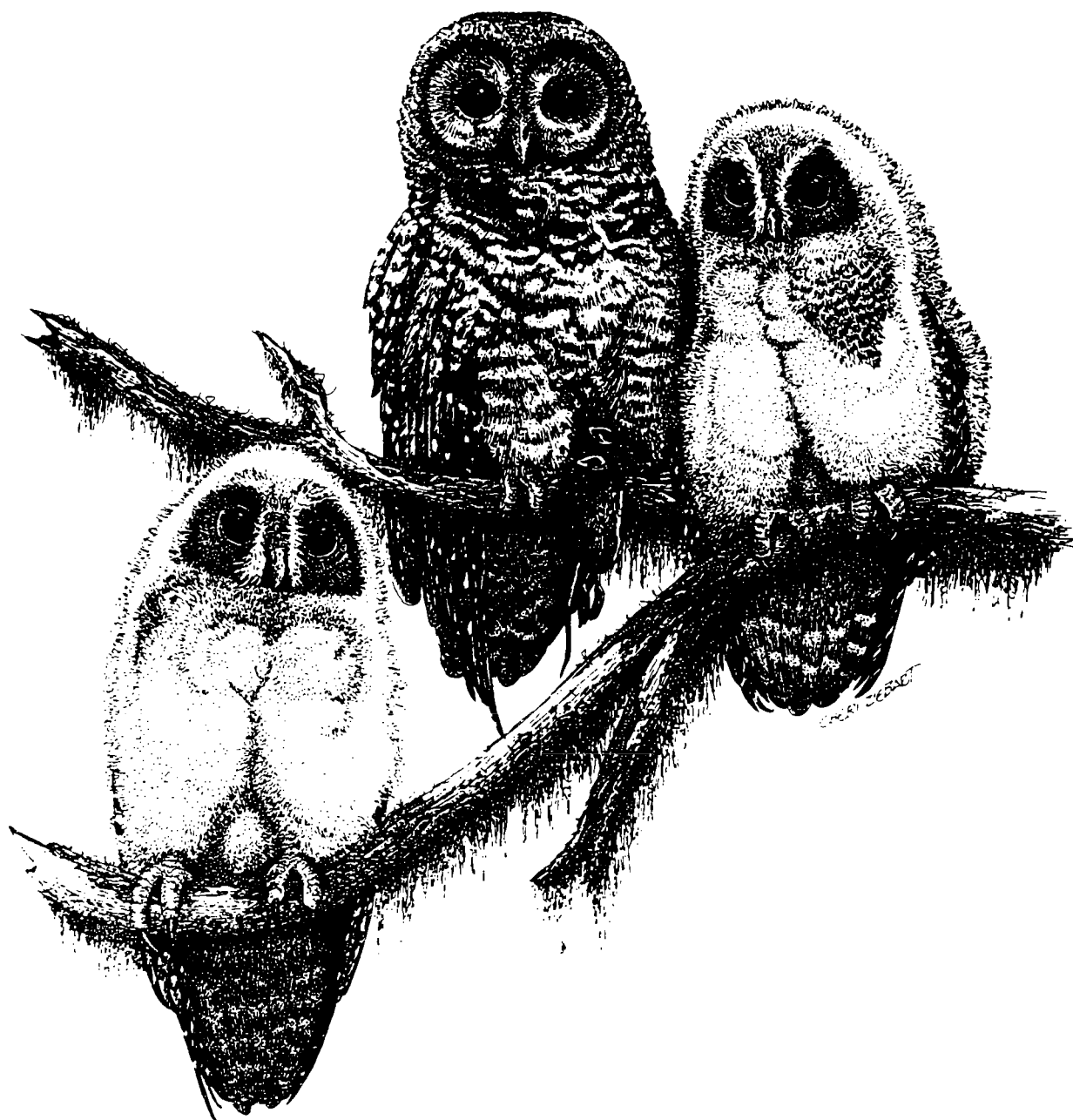
National
Forest
System

March 1992



Record of Decision Final Environmental Impact Statement

on Management for the Northern Spotted Owl in the National Forests



The Viability Requirement in National Forest Planning

The National Forest Management Act requires that National Forest planning regulations "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" (16 U.S.C. Sec. 1604 (g)(3)(B)). Forest planning regulations require that diversity of plant and animal communities--the entire biological community--be considered throughout the process for integrated resource planning for Forest Plans (36 CFR 219.13, 219.26 and 219.27(g)). These regulations also include provisions that specify how particular resources that are part of the biological community are to be addressed in forest planning.

Among the provisions for fish and wildlife habitat are requirements to manage habitat to maintain viable populations of vertebrate species (36 CFR 219.19 and 219.27(a)(6)). There are also requirements to select representative species to serve as indicators of the effects of management and to establish management objectives to maintain or improve habitat for these species, consistent with overall multiple-use objectives (36 CFR 219.19(a) and 219.27(a)(6)). In addition, there are requirements to protect critical habitat for threatened and endangered species, as determined by the U.S. Fish and Wildlife Service, and to contribute, where possible, to the recovery of listed species (36 CFR 219.19(a)(7) and 219.27(a)(8)).

The viability planning requirement in 36 CFR 219.19 is as follows: "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." In this case, the "planning area" as defined in 36 CFR 219.3 is the range of the northern spotted owl on National Forest System lands.

Because there cannot be scientific certainty about future events, it is not truly possible to "insure" the maintenance of viability of any species. Therefore, population viability for a species under 36 CFR 219.19 is evaluated in terms of the probability or likelihood that the species will persist in well-distributed patterns throughout its range in the National Forest System for a long period of time. For purposes of 36 CFR 219.19, a "high" probability of persistence insures viability.

Planning and management direction for maintaining viable populations of northern spotted owls on National Forest System lands is established in Regional Guides and Forest Plans. Regional Guides provide standards and guidelines for addressing major issues and management concerns that need to be considered at the Regional level to facilitate the development of Forest Plans under the National Forest Management Act (36 CFR 219.8(a)). Forest



RECORD OF DECISION USDA Forest Service

Amendment to the Pacific Northwest Regional Guide

Final Supplement to the Final Environmental Impact Statement

Introduction

This documents my decision to select Alternative F as planning direction for habitat management to maintain population viability of spotted owls in the National Forests of Oregon and Washington, except for the Olympic National Forest. The Olympic National Forest will provide a higher level of protection for spotted owls than was described in Alternative F. In addition, because of incomplete information and uncertainty regarding the long-term effects of actions taken under this decision, management direction adopted in Forest Plans will be reviewed and revised as necessary within 5 years from the date of this decision. This decision amends the standards and guidelines in the Pacific Northwest Regional Guide for planning spotted owl habitat management on 13 National Forests: the Deschutes, Gifford Pinchot, Mount Baker-Snoqualmie, Mount Hood, Okanogan, Olympic, Rogue River, Siuslaw, Siskiyou, Umpqua, Wenatchee, Willamette, and Winema National Forests.

Regional standards and guidelines are general direction for National Forests to use in developing Land and Resource Management Plans (Forest Plans) under the authority of the National Forest Management Act (16 U.S.C. Sec. 1600 et seq.). The act requires that National Forests provide for diversity of plant and animal communities in order to meet overall multiple-use objectives (16 U.S.C. Sec. 1604 (g)(3)(B)). Population viability of native vertebrate species is an integral part of providing for animal diversity in a National Forest. This decision provides Regional direction to ensure that the requirements of law and regulation (36 CFR 219.19) regarding spotted owl population viability are met as part of planning for overall multiple-use management of the National Forests.

The Forest Plans, now in draft, will use these standards and guidelines to plan for spotted owl habitat management. Forests will designate spotted owl habitat areas (hereafter referred to as Habitat Areas) to sustain breeding pairs of spotted owls in a number and distribution that sustains viability and provides for periodic interchange between individuals to prevent isolation of small subpopulations. Actual management of spotted owl habitats on specific sites in each Forest, including in Habitat Areas, will be determined through projects that implement the Forest Plans. For the time between this decision and completion of the Forest Plans, the Regional standards and guidelines will serve as interim direction for managing spotted owl habitats. Thus, it is recognized that additional analysis will occur at the Forest level to apply these standards and guidelines to determine the actual size, pattern, and management of habitats inside and outside of Habitat Areas. Planning direction adopted by this decision will be reevaluated within 5 years, based on new information obtained through an accelerated, interagency program of management, inventory, research, and monitoring of spotted owls and their habitats. Sufficient options will remain at that time to adjust the course of managing spotted owls and their habitats.

will be reevaluated. At that time, those acres would constitute 50 percent of all National Forest spotted owl habitat. These habitats will be more fragmented than those in reserved areas or in designated Habitat Areas, but they will provide options for future planning decisions to replace designated habitat lost due to catastrophic events such as fire, to augment the total amount or distribution of designated habitat should new information show that it is needed, or to provide "stepping stone" habitats to improve dispersal of individual owls. Amendments or revisions to Forest Plans may employ habitats in lands determined as suited for timber production to modify designated Habitat Areas as needed.

My decision, thus, uses the entire forested landscape within the range of spotted owls in the 13 National Forests of Oregon and Washington to maintain a viable population and meet overall multiple-use objectives. Population viability of spotted owls depends on the aggregate of all suitable habitats, not just those specifically designated as Habitat Areas. The designated Habitat Areas ensure that a sufficient number of breeding pairs will be protected on all land use classes during the period of this decision and that they will be distributed in a manner that ensures their continued existence in the planning area for the long-term. Without such designated habitats, loss of suitable spotted owl habitat during the period in lands suited for timber production would reduce total number and distribution, through increased habitat fragmentation and isolation of small populations, to levels that would not maintain long-term viability.

The best available information indicates that in 5 years at least 3,965,000 acres of spotted owl habitat will remain in the National Forests. It will occur in an amount and distribution that support a population number and distribution that provide security from factors that could eliminate the species from an area. It does this by sustaining multiple breeding pairs in large reserved areas and preventing future isolation of small subpopulations through the judicious use of designated Habitat Areas on lands suited for timber production. These Habitat Areas will result in about 4 percent of those lands suited for timber production being designated primarily to support breeding pairs of spotted owls to help maintain population viability.

This decision will provide relatively high levels of timber supplies to maintain jobs and economies in the Pacific Northwest that are based on National Forest timber supplies. Alternative F provides for approximately 95 percent of the Allowable Sale Quantity of timber that would be possible if no action (Alternative A) were taken to protect spotted owl habitat distribution and approximately 96 percent of the sale quantity that would be possible if existing management direction (Alternative C) were continued. It provides for 180 to 185 percent of the Allowable Sale Quantity that would be possible if all spotted owl habitat in the National Forest System were to be protected (Alternative L).

This has been a difficult decision to make. A fundamental mission of land stewardship requires that we sustain viable populations of all native vertebrates in the National Forests by protecting and managing a sufficient amount and distribution of their habitats. The basic mission of serving people by providing resources for their livelihoods and lifestyles requires continual adjustment in the balance of how specific areas of land are managed. There are high costs and risks involved with such decisions, regardless of how the balance is struck. To sustain population viability for spotted owls we must protect some lands that could otherwise be available for timber production; the known information dictates this, but exactly how much and where are unclear at this time. Fortunately, sufficient options will remain in 5 years to adjust the decision if new information shows that is needed. I realize that this decision has an immediate and known consequence to people who depend on timber supplies from the National Forests; some timber-related jobs and economic activity will be lost in the two States. I have tried to protect the future for spotted owls, based on the prudent use of known information, in ways that minimize the immediate negative effects on people's lives. Recognition of the importance of information that is unclear at this time causes me to emphasize the crucial roles of the Spotted Owl Research, Development, and Application Program; the Interagency Agreement on Management of Spotted Owls; Memoranda of Agreement with the two States; and the 5 year duration of this decision. To reiterate, we are not deciding the future for spotted owls for all time with this decision, only what will happen to habitats and populations for the next 5 years in the National Forests of Oregon and Washington.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

March 8, 1985

SUBJECT: USDA Decision on Review of Administrative
Decision by Chief of the Forest Service
related to the Administrative Appeal of the
R-6 Regional Guide and EIS

TO: R. Max Peterson
Chief
Forest Service

This is a review of a decision by the Chief of the Forest Service dated June 14, 1984, pursuant to 36 CFR 211.18(f)(1)(iv) on an administrative appeal brought by the National Wildlife Federation, the Oregon Wildlife Federation, the Lane County Audubon Society, and the Oregon Natural Resources Council.¹ Appellants and intervenors raise issues concerning alleged inadequacies in the Chief's decision and in the procedure leading to that decision. These issues relate solely to the Region 6 Regional Guide's treatment of the northern spotted owl. No other element of the Regional Guide was challenged; therefore, all other portions of the Guide are considered final. The principal issues are whether the Regional Guide and accompanying Environmental Impact Statement (EIS) adequately complied with the requirements of the National Environmental Policy Act and the requirements of the National Forest Management Act regulations for assuring sufficient habitat for the northern spotted owl to maintain a viable population.

Specific issues raised by the appellants include:

1. The spotted owl management guidelines failed to consider, or require consideration of, the cumulative impacts of timber harvesting on the spotted owl.

¹ Subsequent to filing of the Notice of Appeal and Statement by Reasons by appellants, intervention was granted upon request, 36 CFR 211.18(1)(1), (1) to Seattle Audubon Society who subsequently joined appellants in their reply to the Chief's responsive statement, (2) to Northwest Pine Association, and (3) to Industrial Forestry Association who filed separate replies to the Chief's responsive statement.

The Regional Guide, which was approved by the Chief on June 14, 1984, and is here under appeal, addresses considerable attention to management of the northern spotted owl. In fact the Guide prescribes a minimum number of spotted owl pairs to be provided in Region 6. Based on that number, shares are allocated to each of the Region 6 forests upon which spotted owl populations are known to occur. The numbers prescribed are essentially derived from the Spotted Owl Management Plan originally adopted by the Regional Forester in 1979 and subsequently revised in 1981.

By assigning each forest the minimum number of spotted owl pairs, the regional guide and EIS implicitly are telling each forest that once the assigned number of pairs is met, the rest of the forest is available to be considered for other uses. Conversely, of course, the assignment of specific numbers by the Regional Guide preempts a significant acreage of old growth forest from consideration for uses that are incompatible with management for spotted owl habitat.

ESTABLISHMENT OF MINIMUM MANAGEMENT REQUIREMENTS
FOR WILDLIFE AND THE PLANNING UNIT WITHIN WHICH
THOSE REQUIREMENTS WILL BE ACHIEVED

The NFMA regulations require that fish and wildlife habitat on the National Forests:

"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." (36 CFR 219.19)

This provision requires that: (1) the Forest Service manage habitats within the planning area to maintain at least minimum viable populations of wildlife, and (2) suitable habitat be distributed so that individual members of a species can interact with others in the planning area. This provision of the NFMA regulations goes beyond the statutory requirements of NFMA which calls only for providing for diversity of plant and animal communities. So long as 36 CFR 219.19 in its present form is part of the NFMA regulations, however, it is a valid exercise of the Secretary of Agriculture's discretion in managing the National Forests.

Individual members of a species are not normally evenly distributed throughout the species' range, but occur where habitat conditions are favorable within that range. Where a species' preferred habitat conditions are certain forest vegetative characteristics or conditions that depend upon the age of the forest, the distribution of wildlife populations can shift dramatically over time as different areas of the forest progress through various successional stages. These shifts of a species' population distribution over time are a natural phenomenon which commonly occurred in presettlement North American forests. Catastrophic fires, windstorms, and insect epidemics (working singly or in combination) were the primary natural agents which often destroyed large areas of mature forest and caused the forest successional process to start over. Single natural catastrophic events often destroyed old growth forests over thousands or even hundreds of thousands of acres. Most forests in presettlement North America (including most forests of western Oregon and Washington) consisted of a mosaic of forest stands of various ages, each of which was relatively even-aged which originated from such natural events.^{/5}

Section 219.19 should not be interpreted to require maintenance of the same distribution of habitats and species that currently exist on the planning area. Such an approach would not be consistent with the reality of natural forest succession. Neither would it provide the flexibility to manage forests for a variety of objectives. Section 219.19 requires only that suitable habitat be reasonably distributed in the planning area (region or national forest, at the discretion of the Forest Service) so that reproductive individuals of a species can interact and a viable population can be provided for in the planning area.

It should be remembered that those portions of Section 219.19 of the NFM regulations discussed above relate only to providing habitat for minimum viable populations of fish and wildlife.^{/6} The Forest Service, of course,

^{/5} For background on forest succession and the diversity requirements of NFM, see "Natural Diversity in Forest Ecosystems," Proceedings of the Workshop, November 29-December 1, 1982, Institute of Ecology, University of Georgia, Athens, Georgia.

^{/6} Treatment of the fish and wildlife resource in the regulations is different than the other multiple uses, in that it is the only resource for which minimum production levels are specified by regulation, i.e. habitat necessary to support minimum viable populations must be provided regardless of impacts on other resources uses. Production levels for other multiple uses are established through the planning process with no mandated minimums specified by regulation.

3/13/94 3:00

The National Forest Management Act requires the Secretary of Agriculture to promulgate regulations to "specifying guidelines for land management plans developed to advance the goals of the Program which ... 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." The Secretary promulgated a planning regulation for the fish and wildlife resource, which provides in part: "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and non-native vertebrate species in the planning area."

The statute and implementing regulations establish an obligation to provide for the continued existence of vertebrate species in the planning area. This obligation may be met through the use of management indicator species, the Forest Service sensitive species program, and other existing or foreseeable conservation measures. Relevant considerations are the life history of the species, the current amount and distribution of habitat, the distribution of a species' ranges within the planning area, and other ecological considerations.

Species-specific assessments are not required, and reasonable reliance also may be placed upon assessments of (1) other species whose habitat needs are essentially the same, (2) a group of species generally thought to perform the same or similar ecosystem functions, and (3) the continued integrity and function of ecosystems in which the species is found. Flexibility in selecting methodology is necessary to assess a variety of complex issues with limited resources.

THAN STOP DOWN TO DISCUSS THE ANALYTICAL APPROACH
IN 821'6



U.S. Department of Justice

Environment and Natural Resources Division

WMC:EMathas

90-1-4-3806

(202) 272-8236

Washington, D.C. 20530

** PRIVILEGED COMMUNICATION **

PREPARED DURING AND IN ANTICIPATION OF LITIGATION

April 4, 1994

MEMORANDUM

To: Lois J. Schiffer
Acting Assistant Attorney General

Peter D. Coppelman
Deputy Assistant Attorney General

From: Ellen M. Athas *EM*
Assistant Section Chief
General Litigation Section

Re: Spotted Owls: Change in Information re Timber
Sales That Could Alter Entire Strategy

Last week we received a fax from Assistant United States Attorney Tom Lee, who has handled the Portland Audubon Society v. Babbitt matter for the BLM. Tom was alerting us to his plan to file immediately a "Filing of Final Supplemental Environmental Impact Statement and Notice of Satisfaction of Final Judgment" with Judge Frye to conclude the injunction in the Portland Audubon matter in order to allow certain awarded timber sales to go forward immediately. I called Tom to discuss this further, and he advised that he was moving ahead to file this Satisfaction based on a BLM request. On Peter's advice, I requested Tom's assurance that nothing would be filed, and Tom has now agreed to file no documents until April 15.

The existence of this timber -- 70 MBF of already-awarded timber sales -- comes as a surprise to all, including the Solicitor's Office in Washington. Indeed, moving forward with these sales could alter our entire planned strategy. If this Satisfaction were filed shortly and the BLM announced its plan to go forward with timber harvesting, the entire tenor of our strategy would change.

Background

Current Injunctions. Three injunctions are currently in place in the Pacific Northwest. First, the injunction against the auction and award of timber sales on Forest Service lands was issued by Judge Dwyer and remains in place in Seattle Audubon Society v. Lyons. The terms of that injunction provide that the

Forest Service must "submit to the court and have in effect . . . revised standards and guidelines to ensure the northern spotted owl's viability, together with an environmental impact statement, as required by NFMA and its implementing regulations."

Second, in Portland Audubon Society v. Babbitt, Judge Frye enjoined BLM from "offering or awarding timber sales, or allowing any logging operations . . . until BLM submits to this court a supplemental Environmental Impact Statement or its functional equivalent which examines new information on the effects of logging on the northern spotted owl subspecies as required by NEPA." Finally, in Lane County Audubon Society v. Jamison, Judge Jones enjoined all timber sales from going forward until "completion of Endangered Species Act Section 7 consultation with respect to the Jamison Strategy or any other spotted owl conservation strategy. . . ."

At several strategy sessions, we struggled with how to satisfy these three injunctions. We concluded that Portland Audubon and Lane County Audubon could reach a quiet closure, and Seattle Audubon, based on the language of the injunction, would require affirmative steps. All this, however, was based on the information we had received that no enjoined timber sales would go forward until summer. This new information about these sales going forward immediately changes the forecast.

Timing on New Timber Sales. It was important to DOJ to determine when timber sales would be going forward under the new ROD in order to plan a responsive strategy. Therefore, we asked both the Forest Service and the BLM agency counsel to provide us with written timelines. The Solicitor's Office advised that no sales would proceed until August 1994, because of the need to amend existing Resource Management Plans. See Memorandum of Kristina Clarke, March 7, 1994, attached. Similarly, the Office of General Counsel advised that their procedures to prepare, auction, award and go through administrative waiting periods and possibly appeals would take approximately 120 days. See Memorandum of Michael Gippert, dated March 2, 1994, attached.

Thus, based on these timelines, we planned our strategy. In particular, we planned to keep the Dwyer action moving forward, while concluding the other two actions quietly. Without timber sales going forward, no "lightning rod" would exist to draw in a new complaint and an immediate p.i./t.r.o. before any other court. We could then move Judge Dwyer for a briefing schedule to draw all plaintiffs and issues into one court.

New Information on BLM Sales

I have now learned that BLM has 70 MBF of previously awarded timber sales ready for harvest. Under the terms of the

ROD, no adjustments need to be made in these sales, because they are already awarded. If awarded after the ROD, these sales would have to be reconfigured, because at least one of the sales falls within Late-Successional Reserves, and several are within Key Watersheds. These sales represent the only enjoined awarded sales. That is so, because these sales were put forth during a brief window of opportunity in 1992, between the time of the Ninth Circuit ruling and the time of the subsequent injunction. In all other cases, the courts did not enjoin awarded sales from going forward.

As soon as Tom Lee can file his satisfaction of injunction papers, BLM will advise the contractors to move forward and harvest timber. From BLM's perspective, they would like to be able to get these sales harvested as quickly as possible. First, the sales are ready and the timber is needed for the local economy. Second, BLM is concerned that due to the limited rainfall this spring, the forests may be closed off to activities this summer to diminish fire risk. Therefore, if these sales do not proceed quickly, they may not be able to go forward for quite some time.

Overall Litigation Strategy and Coordination

We now must decide how to address these awarded sales and how to coordinate them into our overall litigation strategy. Moving ahead with these sales risks moving all the litigation action immediately to Portland. For a number of reasons, including the O&C Lands Act claims, Portland would not be our first choice for venue. We will need to coordinate with both BLM and the U.S. Attorneys' Offices involved to resolve this question. BLM may need to be asked to hold off on these sales until the litigation strategy is coordinated and carried out. Because of the importance of the Portland Audubon Society v. Babbitt matter, we should be coordinating with the United States Attorney for Oregon, Kristine Olson Rogers. Similarly, we should be coordinating with Katrina C. Pflaumer, the United States Attorney for the Western District of Washington, in whose district the Seattle Audubon litigation is going forward. In that way, there can be full coordination among all the interested parties.

Conclusion

At present, we have Tom Lee's agreement to file nothing until April 15. We need to move quickly for overall strategy approval in Washington and full coordination with the U.S. Attorneys. We also need to work with BLM if we are to get their agreement to hold off on moving ahead with these sales until this case can be litigated in a timely manner. Please let me know how you would like to proceed.