



Record of Decision

Proposed Issuance of Multiple Species Incidental Take Permits or 4(d)
Rules for the Washington State Forest Practices Habitat Conservation Plan

USFWS and NMFS

May 2006



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Acronyms

DPS	distinct population segment
Ecology	Washington Department of Ecology
EIS	Environmental Impact Statement
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
ESU	evolutionarily significant unit
FPHCP	Forest Practices Habitat Conservation Plan
HCP	Habitat Conservation Plan
IA	Implementation Agreement
ITP	Incidental Take Permit
LWD	Large Woody Debris
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOI	Notice of Intent
RCW	Revised Code of Washington
ROD	Record of Decision
USFWS	U.S. Fish and Wildlife Service
WAC	Washington Administrative Code
WAU	Watershed Administrative Unit
WDNR	Washington State Department of Natural Resources
WRIA	Washington Resource Inventory Area

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Record of Decision for the Proposed Issuance of Multiple Species Incidental Take Permits or 4(d) Rules for the Washington State Forest Practices Habitat Conservation Plan

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1. Introduction

This Record of Decision (ROD) was developed by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) (together the Services) in compliance with both agencies' decision-making requirements, pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended. The purpose of this ROD is to document the Services' decisions in response to applications for Incidental Take Permits (ITPs) (USFWS ID PRT-X121202-0; NMFS ID 1573) for species listed under the Endangered Species Act of 1973 (ESA), as amended. Responses are based on submission of the Forest Practices Habitat Conservation Plan (FPHCP) by the applicant, the Washington State Department of Natural Resources (WDNR 2005), on behalf of the State of Washington (the State). The ITP application and supporting FPHCP were submitted to the Services pursuant to Section 10(a)(1)(B) of the ESA.

This ROD is designed to 1) state the Services' decision and present the rationale for that decision; 2) identify the alternatives considered in the final Environmental Impact Statement (EIS) in reaching the decision; and 3) state whether all means to avoid or minimize environmental harm from implementation of the selected alternative have been adopted (40 CFR 1505.2).

Documents used in preparation of this ROD include the Draft and Final EISs (NMFS and USFWS 2005; NMFS and USFWS 2006), WDNR's FPHCP (WDNR 2005), the Implementation Agreement (IA) between the Services and the applicant (USFWS, NMFS, Washington State 2005), each Service's Biological Opinions (NMFS 2006; USFWS 2006a), and USFWS' Statement of Findings, (USFWS 2006b) all incorporated in this ROD by reference.



2. Project Description

2.1 PURPOSE AND NEED

The purpose of the Services' proposed action is to respond to WDNR's ITP applications. The need for this action is to provide broader protection and conservation for listed species under ESA Section 10(a)(1)(B) than would occur under Section 9, while providing for long-term management of forest resources on non-Federal and non-tribal lands under the Washington Forest Practices Rules.

2.2 SPECIFIC PROJECT DESCRIPTION

WDNR applied to the Services for authorizations that would allow for the incidental take of aquatic species (salmon, steelhead, bull trout, and certain unlisted species, should they become listed) under the ESA, through Section 10(a)(1)(B) or through Section 4(d) for threatened species only. The applications relate to the potential for take that may result from activities under the Washington Forest Practices Rules. Take authorizations can be obtained from both Services under Section 10(a)(1)(B) through an ITP. An ITP can provide take authorization for endangered and threatened species and can also provide take authorization for unlisted species should they become listed at some time in the future. Take authorization under ESA Section 4(d) is available for species listed as threatened (but not endangered), but only if a specific 4(d) rule has been adopted that addresses the threatened species. It can be obtained from NMFS through an existing 4(d) rule, which includes a limit that pertains to the State's Forest Practices Regulatory Program (Limit 13), or through an authorization defined in some future 4(d) rule, not currently contemplated. It can be obtained from USFWS only through a take exemption defined in some future 4(d) rule (because no existing USFWS 4(d) rules apply either to the species addressed by the State's applications or to the Washington Forest Practices Rules).

An ITP and a take limit or exemption (collectively referred to as take authorization) are expected to: 1) provide long-term regulatory stability for forest management activities that are regulated by the Washington Forest Practices Regulatory Program; 2) allow for the protection of covered species to the maximum extent practicable consistent with maintaining commercial forestry as an economically viable industry; and 3) provide a regulatory climate and structure more likely to keep landowners in commercial forestry, rather than converting forestlands to other uses that may be less desirable for salmon recovery.

While WDNR made applications for ITPs and 4(d) take authorizations, the Services' preferred alternative in the EIS presented a scenario in which only ITPs would be issued by both NMFS and USFWS. As a result, the discussion from this point forward will address the issuance of ITPs unless otherwise indicated. The Services' proposed action, therefore, is to issue two ITPs to WDNR. One ITP would be issued by USFWS for species under its jurisdiction and one by NMFS for species under its jurisdiction (Appendix A). The ITPs would cover forest management activities on approximately 9.3 million acres of forestland within the State subject to the Washington Forest Practices Act, chapter 76.09 of the Revised Code of Washington (RCW). Approximately 6.1 million acres of the covered lands are located west of the crest of the Cascade Range, and approximately 3.2 million acres are in eastern Washington. Ownership patterns of the



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covered lands range from individuals and families who own small forest parcels to large holdings owned and managed by private corporations and public agencies.

Issuance of the ITPs would be conditioned on implementation of the FPHCP, which is designed to provide conservation benefits to the species for which incidental take would be authorized. WDNR developed its FPHCP with technical assistance from the Services. The duration of the proposed ITPs is 50 years.

Following is an expanded description of the lands, species, and activities covered by the proposed ITPs and FPHCP and the associated protection measures to be implemented by WDNR.

2.3 COVERED LANDS

Covered lands are forestlands within the State subject to the Washington Forest Practices Act, Chapter 76.09 of the RCW. Forestland means "all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing" (Washington Administrative Code [WAC] 222-16-010).

For purposes of road maintenance and abandonment planning and implementation for small forest landowners, "forestland" excludes the following: residential home sites, crop-fields, orchards, vineyards, pastures, feedlots, fish pens, and land on which appurtenances necessary to the production, preparation, or sale of crops, fruits, dairy products, fish, and livestock exist (WAC 222-16-010).

Forestlands covered by existing, federally approved HCPs generally are not considered part of FPHCP covered lands (WAC 222-12-041). However, there are two exceptions. One is the five-year Western Pacific timberlands single-species HCP that encompasses 620 acres and provides coverage for the northern spotted owl, but not for aquatic species (HCP and ITP originally held by Boise Cascade). The other exception is approximately 228,000 acres of managed lands on the east side of the Cascade Crest that were included in the approximately 1.6 million acres addressed by the WDNR State Lands Habitat Conservation Plan (HCP) (WDNR 1997). The WDNR HCP provides coverage for some listed terrestrial species east of the Cascade Crest (e.g., wolves, spotted owls, and bald eagles), but does not include coverage for aquatic species. The forestland contained within these two areas is considered part of the covered lands under the FPHCP.

Covered lands may change over time as acreages are bought and sold or land-use status is modified. For instance, the area of covered lands may increase if another existing HCP is terminated, and those lands then become subject to the standard Washington Forest Practices Rules covered by the FPHCP. Lands may decrease if a new HCP is developed, and those lands are no longer subject to the standard Washington Forest Practices Rules. Forestlands purchased and included as Federal lands would no longer be covered by the FPHCP. Land exchanges between landowners of covered lands and Federal, State, or other, existing HCP lands could both increase and decrease FPHCP covered lands. Lands that are converted from forestry to other land uses would no longer be subject to the Washington Forest Practices Rules or the FPHCP. Lands that become newly forested could become subject to the Washington Forest Practices Rules and FPHCP. For instance, if an old field is planted to hybrid poplar, which is harvested before it is



25 years old, the field remains subject to agricultural rules; however, if that plantation is allowed to grow past 25 years of age, it would become subject to the Washington Forest Practices Rules and FPHCP.

2.4 COVERED SPECIES

The species proposed for coverage by the FPHCP are presented in Appendix A. The NMFS ITP would apply to six evolutionarily significant units (ESUs) of Chinook salmon, two ESUs of chum salmon, two ESUs of sockeye salmon, and five ESUs of steelhead trout. In addition, the NMFS ITP would apply to 15 currently unlisted species, should they become listed in the future (Appendix A). The USFWS ITP would apply to two distinct population segments of bull trout. In addition, the USFWS ITP would apply to 47 currently unlisted aquatic species, should they become listed in the future (Appendix A).

2.5 COVERED ACTIVITIES

Forest-practices activities covered by the FPHCP include road and skid-trail construction, road maintenance and abandonment, final and intermediate harvesting, precommercial thinning, reforestation, timber salvage, and brush control. In addition, adaptive management research and monitoring activities—some of which include experimental treatments—are also covered by the FPHCP.

Major activities not covered in the HCP, and for which take authorization would not be authorized by the ITPs, include the following: 1) forest chemical use; 2) conversion of land to uses other than forestry; and 3) the Washington Department of Fish and Wildlife, Hydraulic Project Approval Program

The Services also have limited permit coverage under the 20-acre exemption rule for those landowners eligible on or before the date of the permit issuance, through a condition to the ITP (see the section below, entitled *Conditions*).

2.6 PROTECTION MEASURES AND CONSERVATION STRATEGIES

The FPHCP includes protection measures to minimize, mitigate, and monitor impacts and incidental take that are caused by the covered activities. Protection measures are presented in detail in Chapter 4 of the FPHCP as two separate, but interrelated, conservation strategies: a Riparian Conservation Strategy and an Upland Conservation Strategy. In summary, the Riparian Conservation Strategy consists of riparian and wetland management zones that provide woody debris recruitment, shade, and other ecological functions through tree retention; limitations on equipment use in and around waters and wetlands to minimize erosion and sedimentation and maintain hydrologic flowpaths; and streamside land and timber acquisitions for the long-term conservation of aquatic resources. The Upland Conservation Strategy would be implemented in upslope areas outside riparian zones and wetlands and would include protection measures related to unstable slopes, road construction, maintenance, abandonment, and rain-on-snow areas. These measures are designed to limit forest-practices-related changes in physical watershed processes such as mass wasting, erosion, and hydrology that may adversely affect the quality and quantity of riparian and aquatic habitat lower in the watershed, thereby minimizing and mitigating take of covered species.



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The FPHCP includes a substantial compliance and enforcement program to ensure that forest practices activities are being implemented according to the Washington Forest Practices Rules and the provisions of the FPHCP. This program includes a forest practices permitting and screening process, compliance and enforcement inspections, and compliance monitoring. These elements of the compliance and enforcement program under the FPHCP would support both the Riparian and the Upland Conservation Strategies and would help ensure that the FPHCP goals and resource objectives are met.

Section 4a-4 of the FPHCP and section 10.0 of the IA further address the adaptive management program under the Washington Forest Practices Rules. These sections describe how WDNR and the Services will evaluate uncertainties in the Washington Forest Practices Rules to ensure that the conservation measures in the FPHCP are being implemented adequately and are meeting the FPHCP goals and resource objectives. In summary, the adaptive management program described in these sections will assist in determining if and when it is necessary or advisable to adjust the Washington Forest Practices Rules and guidance to achieve the FPHCP's resource objectives or to respond to monitoring results, evaluation, or research. The adaptive management program will also be used to respond to changed circumstances as identified in Section 1-2.5 of the FPHCP.



3. Alternatives

Four alternatives were analyzed in the EIS, including two no action alternatives and three action alternatives. Two no action alternatives were analyzed, because both scenarios are possible outcomes if take authorization is not granted. The alternatives included the following:

1) No Action Alternative; 2) Issuance of Two Incidental Take Permits and Implementation of the FPHCP; 3) Implement a Conservation Plan with a NMFS Section 4(d) Limit 13 Approval and USFWS Section 4(d) Take Exemption; and 4) Increased Forest Ecosystem Protections (as compared to Alternatives 2 and 3).

Three additional alternatives were identified during the EIS scoping process, but they were not analyzed in detail because they would not satisfy the Services' purpose and need, while simultaneously fulfilling WDNR's forest management objectives. As a result the primary ESA section 10(a)(1)(B) criteria—minimize and mitigate incidental take of covered species to the maximum extent practicable—would not be achieved under these alternatives. The three alternatives identified but not analyzed in detail included the following: 1) Alternative With Fewer Restrictions on Landowners than the Proposed FPHCP; 2) Alternative with a Reduced Permit Duration or the Elimination of a "No Surprises" Provision; and 3) Alternative with a Higher Protection/Restriction Level.

Following is a brief description of the four alternatives that were analyzed in detail.

3.1 ALTERNATIVE 1: NO ACTION ALTERNATIVE

Under the No Action Alternative, the Services would not issue take authorization to the State for the Washington Forest Practices Rules under ESA Section 10(a)(1)(B) or Section 4(d). Instead, the State would regulate non-Federal and non-tribal forestlands to avoid take where possible, and the Services would enforce the prohibition against take of listed species through Section 9 of the ESA by prosecuting violations of the ESA, as appropriate.

Two scenarios that represent the endpoints of the reasonable range of possible outcomes were defined to represent the No Action Alternative. These scenarios are referred to as Alternative 1 – Scenario 1, and Alternative 1 – Scenario 2. In Chapter 4 of the EIS, *Environmental Effects*, and Chapter 5, *Cumulative Effects*, Alternatives 2, 3, and 4 were compared to both No Action Alternative 1 scenarios to measure the relative effects of those alternatives.

3.1.1 Alternative 1 – Scenario 1

Under this scenario, no ITPs or take authorization would be issued, and the current rules (based on the Forests and Fish Report, effective in July 2001) would remain in effect. The amount of collaboration and participation among Forests and Fish stakeholders in adaptive management research and monitoring and other program elements that depend on landowner support and participation would be substantially reduced because of the absence of the anticipated regulatory certainty provided by take authorization. As a result, there would be reduced public funding for the nonregulatory elements of the program, and the ability to modify the rules over time would be substantially reduced, limited by statute to only modifications based on scientific research.



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3.1.2 Alternative 1 – Scenario 2

Under this scenario, no ITPs or take authorizations would be issued, and the Washington State Legislature would allow the Forest Practices Board to repeal the current State rules, adopting in their place the less-protective rules that were in effect on January 1, 1999. The amount of collaboration and participation among Forests and Fish stakeholders in the adaptive management program, associated monitoring, and other program elements that depend on landowner support and participation would be substantially reduced because of the lack of anticipated regulatory certainty provided by take authorization. Furthermore, the roll-back of regulations to the less-protective January 1, 1999, rules would result in even more reductions in stakeholder participation and support for the program compared with Alternative 1 – Scenario 1. The reduced support would result in reduced public funding. This alternative would signify the end of the current Washington Forest Practices Rules (i.e., Forests and Fish Rules).

3.2 ALTERNATIVE 2: ISSUANCE OF TWO INCIDENTAL TAKE PERMITS AND IMPLEMENTATION OF AN HCP

Under Alternative 2, the Services would issue ITPs to the State, based on implementation of the FPHCP. The FPHCP incorporates the current Washington Forest Practices Rules (which are based on the Forests and Fish Report and became effective in July 2001). The State is seeking an ITP from each of the Services, each for a term of 50 years. Because of greater regulatory certainty with the ITPs, stakeholder support and participation and public funding for adaptive management, associated monitoring, and other program elements that depend on landowner support, voluntary participation, and public funding would continue.

3.3 ALTERNATIVE 3: IMPLEMENT A CONSERVATION PLAN WITH A NMFS SECTION 4(D) LIMIT 13 APPROVAL AND USFWS SECTION 4(D) TAKE EXEMPTION

Under Alternative 3, the Services would not issue ITPs, but NMFS would make necessary findings under its existing 4(d) rule to provide authorization for take of threatened salmon and steelhead addressed by the rule for take incidental to forest practices described in the conservation plan. USFWS would adopt new 4(d) rules to provide similar incidental take authorization for bull trout. Take authorization under this alternative would not apply to endangered species or to species that may be listed in the future. Take authorization would not have a specific term and could be terminated under procedures provided in the relevant 4(d) rule, or by revocation of the rule itself. Because of these limitations on regulatory certainty, stakeholder participation and support and public funding of adaptive management and other program elements would be reduced and, therefore, would not be sufficient to implement fully the non-regulatory elements of the program.

3.4 ALTERNATIVE 4: INCREASED FOREST ECOSYSTEM PROTECTIONS

Under Alternative 4, the Services would issue ITPs to the State based on implementation of Forest Practices Rules that are more protective than the current rules (which are based on the

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Forests and Fish Report and became effective in July 2001). The term of the ITPs under this alternative would be 50 years. Alternative 4 would require action by the Washington State Legislature or a court order to initiate additional rule making by the Forest Practices Board to increase protective measures in the rules. Because landowners would likely believe that the rules under Alternative 4 would be overly protective, there would be substantially less stakeholder support and participation and public funding for adaptive management, associated monitoring, and other program elements that depend on landowner support and voluntary participation and public funding. However, because the rules likely would create less biological uncertainty, there would be reduced need for an adaptive management program under this alternative.



4. Public Involvement

The Services formally initiated environmental review of the project through a Notice of Intent (NOI) to prepare an EIS in the Federal Register on March 17, 2003 (68 FR 12676). This NOI announced a 30-day public scoping period, during which other agencies, Tribes and the public were invited to provide comments and suggestions regarding issues and alternatives to be included in the EIS. Public scoping meetings were also announced in the NOI; they were held at four locations throughout the State. The public meetings involved a mix of informal and formal presentations, and a variety of informational material related to the proposed action was made available to attendees. A public scoping report was produced from this public scoping. It is available in the Services' administrative record for this action.

A Draft EIS and Draft FPHCP were subsequently produced and made available for a 90-day public comment period announced in the Federal Register on February 11, 2005 (70 FR 7245, 70 FR 7245). During the comment period, 743 comment letters were received from Federal and State agencies, Tribes private landowners, environmental organizations, and the general public. Primary issues raised in the comments related to ESA, EIS process and alternatives, technical issues about the proposed action, economics, and tribal and cultural issues. Many of the comments and suggestions were incorporated into the Final FPHCP and Final EIS. Volume II of the Final EIS contains a summary of comments received on the draft documents and the Services' responses, including a description of changes made to the Draft FPHCP and Draft EIS.

The Final EIS and Final FPHCP were subsequently produced, and they were made available for a 30-day public review period announced in the Federal Register on January 27, 2006 (71 FR 4578, 71 FR 4609). During the review period, 10 comment letters were received and are summarized in Appendix B of this ROD. A review of the comments revealed that most of the issues had already been raised in public comments on the Draft EIS and Draft FPHCP, and they had been addressed in the preparation of the Final EIS and Final FPHCP. The rest of the comments were considered during the Services' decision-making process. The Final EIS, subsection 1.4, describes the public involvement for this action in detail.



5. Decision, Rationale, and Conditions

5.1 DECISION AND RATIONALE

The Services' decisions are to adopt WDNR's proposed FPHCP Alternative (Alternative 2) and issue ITPs, while also incorporating conditions described below in the Conditions Section. Issuance of the ITPs to WDNR authorizes the incidental take of the species listed in Appendix A in compliance with the FPHCP, IA, and specific provisions and conditions of the ITPs. Species not currently listed under the ESA are included, in the event that they become listed as threatened or endangered under the ESA during the 50-year permit, pursuant to the Services' joint No Surprises Rule (50 CFR Parts 17 and 22).

The rationale for this decision is based on the following: 1) NMFS' Biological Opinion, Unlisted Species Analysis, and Section 10 Findings (NMFS 2006) indicate that by adding the requirements described in the Conditions Section of this ROD the proposed action would not jeopardize species under NMFS' jurisdiction, and the ESA Section 10 statutory issuance criteria have been met (including the requirement to minimize and mitigate take of covered species to the maximum extent practicable); 2) USFWS' Biological Opinion and Section 10 Findings (USFWS 2006a) indicate that by adding the requirements described below in the Conditions Section of this ROD the proposed action would not jeopardize species under USFWS' jurisdiction, and the ESA Section 10 statutory issuance criteria have been met (including the requirement to minimize and mitigate take of covered species to the maximum extent practicable); and 3) the Services' Draft and Final EISs (NMFS and USFWS 2005, NMFS and USFWS 2006) demonstrate that, through a review of alternatives and environmental consequences and in consideration of public comments, the proposed action (Alternative 2) will provide a level of conservation not achievable through the other alternatives, while also providing the greatest level of Federal assurances to WDNR. This combination of conservation and Federal assurances will provide the greatest certainty that the timber industry on private forestlands in the State will remain viable for the term of the ITP (50 years), and that the forestlands within the covered area will be maintained and not converted to other uses that may be less desirable for listed species conservation. That is because Alternative 2 will implement the FPHCP in its entirety, including protection measures to minimize, mitigate, and monitor effects and incidental take of threatened, endangered, and unlisted species covered by the FPHCP.

Protection measures are presented in detail in Chapter 4 of the FPHCP as two separate, but interrelated, conservation strategies: the Riparian Conservation Strategy and the Upland Conservation Strategy. The Riparian Conservation Strategy consists of riparian and wetland management zones that provide woody debris recruitment, shade, and other ecological functions through tree retention; limitations on equipment use in and around waters and wetlands to minimize erosion and sedimentation and maintain hydrologic flow paths; and, streamside land and timber acquisitions for the long-term conservation of aquatic resources.

The Upland Conservation Strategy consists of protection measures that are implemented in upslope areas outside riparian zones and wetlands. These measures are designed to limit forest practices-related changes in physical watershed processes—such as mass wasting, erosion, and



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hydrology—that may adversely affect the quality and quantity of riparian and aquatic habitat lower in the watershed, thereby minimizing and mitigating take of covered species.

Furthermore, the Services have concluded that Alternative 2 is the environmentally preferred alternative because it provides the most long-term protection and conservation for riparian and aquatic habitat for covered species. Under Alternative 2, riparian and aquatic habitat conservation measures would be substantially improved as compared to Alternative 1 (No Action) Scenario 2.

The Services expect the Adaptive Management Program under Alternative 2 to engender the most participation by Forests and Fish stakeholders as compared with all other alternatives. The Services also expect the Adaptive Management Program to receive the most State and other funding under Alternative 2, as compared with all other alternatives. Further, the Services expect that under Alternative 2 landowners would be less likely to convert their forestlands to other, non-forestry uses that would take those lands out of the FPHCP-covered land base as compared to Alternative 1 (No Action) Scenario 1, Alternative 3, and Alternative 4. For all of these reasons, the Services have determined that Alternative 2 is the environmentally preferred alternative.

5.2 CONDITIONS

As required by ESA Section 10(a)(1)(B), ITPs have been conditioned for implementation of the FPHCP to provide the necessary conservation benefits to the species for which incidental take is being authorized. These conditions, which are incorporated into the Services' Biological Opinions and ESA Section 10 Findings, include the following:

- A. The Forest Practices Habitat Conservation Plan (FPHCP) is generally described in Chapter 4 of the document entitled "Washington State Forest Practices Habitat Conservation Plan," and is approved as constituted on the date of permit issuance. Any changes to the FPHCP shall be subject to the provisions of the implementing agreement for the Final FPHCP, section 11.0 on Modifications and Amendments.
- B. The permittee shall maintain sufficient compliance and enforcement personnel whose responsibilities include conducting on-the-ground inspections of forest operations and documenting and reporting violations. The permittee shall ensure that these personnel are trained in forest practices regulations and enforcement procedures, and that they are equipped with vehicles and other necessary facilities and equipment. The permittee shall ensure that effective procedures are in place to identify operators who commit chronic or significant violations of forest practices regulations. The permittee shall take enforcement actions against violators, including but not limited to notices to comply, stop work orders, corrective action orders, civil penalties, disapproval of forest practices applications, financial assurance requirements, and criminal penalties, as appropriate to deter violations of these regulations.



- C. Under the 20-acre exemption provision (FPHCP section 4b-3.1.3 [WAC 222-30-023(1) for western Washington] and FPHCP section 4b-3.2.3 [WAC 222-30023(2) for eastern Washington]), the Permit shall only apply to the following:
1. Forestlands owned by a person who affirms in writing on a forest practices application of qualifying as an eligible person under the "20-acre exemption" as of and since the date of Permit issuance.
 2. Forestlands that are purchased, inherited, or otherwise lawfully obtained by a person who affirms in writing on a forest practices application of qualifying at the time that person takes possession of the forestlands under the following provisions:
 - a. the forestlands have continually been qualified for the "20-acre exemption" since the date of Permit issuance; or,
 - b. the forestlands have not been subject to commercial harvest under the jurisdiction of the Washington Forest Practices Act since the date of Permit issuance and are being converted to forestland from another land use.
 3. Forestlands subject to a Class IV General Forest Practices Application only when the otherwise-qualifying applicant indicates on the application that he or she is not converting those forestlands to another use within three years.
 4. Forestlands in any Watershed Administrative Unit (WAU) for which the permittee has previously established, with the review and approval by the Services, an estimate of the length of streams on FPHCP Covered Lands. The permittee shall establish, with review and approval of the Services, a method to reasonably estimate post-harvest the length of classified streams on a 20-acre exempt site and the proportion of riparian function as measured by recruitable LWD from the site when compared to that which would have been provided under the standard riparian strategies. The permittee shall monitor 20-acre exempt timber harvest activities and maintain a reasonable estimate of the cumulative change in riparian function provided by FPHCP Covered Lands as measured by recruitable LWD in each WAU that results from 20-acre exempt forest practices covered by this Permit.
 - a. The Permit shall not apply to forestlands subject to subsequent 20-acre exempt forest practices applications when the permittee anticipates that forest practices on those forestlands will result in a cumulative reduction in riparian function as measured by recruitable LWD greater than 10 percent of what would have been provided under the standard riparian strategies.
 - b. The Permit shall not apply to forestlands subject to subsequent 20-acre exempt forest practices applications in a WRIA once the WAUs within



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the WRIA exceeding the "10 percent limit" (above) represent more than 15 percent of the total stream length on FPHCP Covered Lands in the WRIA.

- c. The Permit shall not apply to 20-acre exempt forestlands in any WAU where there is found the spawning and rearing habitat of bull trout populations identified in Table 3-51 of the Opinion until the permittee has established, with review and approval of the Services, that forest practices under the 20-acre exempt provisions will not measurably diminish the level of riparian function provided by FPHCP Covered Lands in the WAU as measured by recruitable LWD when compared to that which would have been provided under the standard riparian strategies.
- D. The permittee shall require trees to be left along Type Np waters under the 20-acre exemption unless it is determined that such leave trees are not necessary to protect covered species and their habitats. Unless determined by WDNR to be unnecessary, leave at least 29 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1,000 feet of stream length within 29 feet of the stream. These leave trees may be arranged to accommodate the forest practices operation.
- E. (FWS permit condition) Each year, prior to commencement of electrofishing surveys or other activities involving capture and handling of listed species for adaptive-management research and monitoring (including validation of the water-typing model), the permittee shall submit an estimate of the amount of stream surveys or electrofishing activities to be conducted and an estimate of the number of listed fish (or miles of listed-species habitat) to be affected by these activities. The permittee shall also provide the names and qualifications of the staff, contractors, or cooperators who will be supervising the field work. The permittee shall provide the FWS with a copy of the operating protocols designed to reduce effects to listed fish while maintaining the efficiency of the surveys and monitoring. This incidental take permit does not apply to operational water typing by individual landowners or to fish-salvage operations; these activities would need incidental take authorization through other means.

Following the conclusion of the field season and prior to the next field season, the permittee shall provide a report to the Project Leader, U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, documenting the level of stream-survey and electrofishing activity and describing any listed fish encounters. This report shall document any effects that may rise to the level of incidental take (including mortality) and shall include the apparent condition of all listed fish specimens encountered. Results of surveys and monitoring shall be incorporated into the appropriate FPHCP periodic reports. The permittee shall obtain all needed Federal and State permits and shall abide by the conditions of each. This includes following the guidelines provided by NMFS (NMFS 2000). If the NMFS guidelines are subsequently revised, the permittee shall follow the revised

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guidelines. The permittee shall follow the guidelines unless proposed operating protocols described above are otherwise approved by FWS and NMFS, or additional restrictions are imposed by the FWS.



6. References

- National Marine Fisheries Service and U.S. Fish and Wildlife Service. 2005. Draft Environmental Impact Statement for the Proposed Issuance of Multiple Species Incidental Take Permits or 4(d) Rules for the Washington State Forest Practices Habitat Conservation Plan. Lacey, WA.
- National Marine Fisheries Service and U.S. Fish and Wildlife Service. 2006. Final Environmental Impact Statement for the Proposed Issuance of Multiple Species Incidental Take Permits or 4(d) Rules for the Washington State Forest Practices Habitat Conservation Plan. Lacey, WA.
- National Marine Fisheries Service. 2006. Biological Opinion, Unlisted Species Analysis, and Section 10 Findings for the Proposed Issuance of a Section 10 Incidental Take Permit to the State of Washington for the Forest Practices Habitat Conservation Plan. Lacey, WA.
- U.S. Fish and Wildlife Service. 2006a. Biological Opinion for the Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the State of Washington for the Forest Practices Habitat Conservation Plan. Lacey, WA.
- U.S. Fish and Wildlife Service. 2006b. Findings and Recommendations For Issuance of a Section 10(a)(1)(B) Incidental Take Permit to the State of Washington for the Forest Practices Habitat Conservation Plan. Lacey, WA.
- Washington Department of Natural Resources. 1997. Final Habitat Conservation Plan (for State Trust Lands). Washington Department of Natural Resources, Olympia, WA.
- Washington Department of Natural Resources. 2005. Final Forest Practices Habitat Conservation Plan. Olympia, WA.
- Washington, State of, U.S. Fish and Wildlife Service, and National Marine Fisheries Service. 2005. Implementation Agreement for the State of Washington Forest Practices Habitat Conservation Plan. Olympia and Lacey, WA.

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7. Signatures

Theresa E. Ratt

Acting *by* David Wesley, Deputy Regional Director
Region 1
U.S. Fish & Wildlife Service

D. Robert Lohn

D. Robert Lohn, Regional Administrator
Northwest Region
National Marine Fisheries Service

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Appendix A

Species Addressed in the Services' Proposed Action, Alternative 2

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Species addressed in the Services' Proposed Action, Alternative 2 and for which incidental take authorization will be extended to the State of Washington through ESA Section 10(a)(1)(B), Incidental Take Permits

Species Under the Jurisdiction of NMFS

Endangered Species

Upper Columbia River spring-run Chinook salmon	<i>Oncorhynchus tshawytscha</i>
Snake River sockeye salmon	<i>O. nerka</i>
Upper Columbia River steelhead	<i>O. mykiss</i>

Threatened Species

Puget Sound Chinook salmon	<i>Oncorhynchus tshawytscha</i>
Lower Columbia River Chinook salmon	<i>O. tshawytscha</i>
Upper Willamette River Chinook salmon	<i>O. tshawytscha</i>
Snake River spring/summer Chinook salmon	<i>O. tshawytscha</i>
Snake River fall Chinook salmon	<i>O. tshawytscha</i>
Columbia River chum salmon	<i>O. keta</i>
Hood Canal summer-run chum salmon	<i>O. keta</i>
Ozette Lake sockeye salmon	<i>O. nerka</i>
Lower Columbia River steelhead	<i>O. mykiss</i>
Middle Columbia River steelhead	<i>O. mykiss</i>
Upper Willamette River steelhead	<i>O. mykiss</i>
Snake River steelhead	<i>O. mykiss</i>

Unlisted Fish Species

Pink salmon (all ESUs)	<i>Oncorhynchus gorbuscha</i>
Coho salmon (all ESUs)	<i>O. kisutch</i>
Chinook salmon (all unlisted ESUs)	<i>O. tshawytscha</i>
Chum salmon (all unlisted ESUs)	<i>O. keta</i>
Sockeye salmon (all unlisted ESUs)	<i>O. nerka</i>
Steelhead/rainbow trout (all unlisted ESUs)	<i>O. mykiss</i>
White sturgeon (marine fish)	<i>Acipenser tranmountanus</i>
Green sturgeon (marine fish)	<i>Acipenser medirostris</i>
Eulachon (marine fish)	<i>Thaleichthys pacificus</i>
Shiner perch (marine fish)	<i>Cymotagaster aggregata</i>
Pacific staghorn sculpin (marine fish)	<i>Leptocottus armatus</i>
Starry flounder (marine fish)	<i>Platichthys stellatus</i>
Surf smelt (marine fish)	<i>Hypomesus pretiosus</i>
Pacific sandlance (marine fish)	<i>Ammodytes hexapterus</i>
Pacific herring (marine fish)	<i>Clupea pallasii</i>



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Species Under the Jurisdiction of USFWS

Endangered Species

None covered

Threatened Species

Bull trout

Salvelinus confluentus

Unlisted Species

Cutthroat trout

Oncorhynchus clarki

Rainbow/Interior redband trout

O. mykiss

Kokanee

O. nerka

Pacific lamprey

Lampetra tridentata

River lamprey

L. ayresi

Western brook lamprey

L. richardsoni

Pygmy whitefish

Prosopium coulteri

Mountain whitefish

P. williamsoni

Olympic mudminnow

Novumbra hubbsi

Chiselmouth

Acrocheilus alutaceus

Redside shiner

Richardsonius balteatus

Longnose dace

Rhinichthys cataractae

Speckled dace

R. osculus

Leopard dace

R. falcatus

Umatilla dace

R. umatilla

Northern pikeminnow

Ptychocheilus oregonensis

Tui chub

Gila bicolor

Lake chub

Causius plumbeus

Peamouth

Mylocheilus caurinus

Largescale sucker

Catostomus macrocheilus

Bridgelip sucker

C. columbianus

Longnose sucker

C. catostomus

Mountain sucker

C. platyrhynchus

Salish sucker

C. carli (species pending)

Three-spine stickleback

Gasteroseius aculeatus

Sandroller

Percopsis transmontana

Coastrange sculpin

Cottus aleuticus

Prickly sculpin

C. asper

Reticulate sculpin

C. perplexus

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Species Under the Jurisdiction of USFWS (continued)

Rifle sculpin	<i>C. gulosus</i>
Shorthead sculpin	<i>C. confusus</i>
Torrent sculpin	<i>C. rhotheus</i>
Slimy sculpin	<i>C. cognatus</i>
Paiute sculpin	<i>C. beldingi</i>
Margined sculpin	<i>C. marginatus</i>
Mottled sculpin	<i>C. bairdi</i>
Longfin smelt	<i>Spirinchus thaleichthys</i>
Burbot	<i>Lota lota</i>
Columbia torrent salamander	<i>Rhyacotriton kezeri</i>
Cascade torrent salamander	<i>R. cascadae</i>
Olympic torrent salamander	<i>R. olympicus</i>
Dunn's salamander	<i>Plethodon dunni</i>
Van Dyke's salamander	<i>P. vandykei</i>
Pacific tailed frog	<i>Ascaphus truei</i>
Rocky Mountain tailed frog	<i>A. montanus</i>

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Appendix B

Public Comments Pertaining to the HCP and EIS

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This appendix is a summary of comments received during the FEIS 30-day public comment period on the Washington Forest Practices Habitat Conservation Plan. The following table lists the number of letters received and the name or organization that provided the letter. The full letters can be viewed at the following website:
<http://www.fws.gov/westwafwo/consplan/docs.html>.

Letter #	Name/Organization
1	Confederated Tribes and Bands of the Yakama Nation
2	Washington Forest Protection Association
3	Mary Roberts, WSU Cooperative Extension, King County
4	Skokomish Nation
5	U.S. Environmental Protection Agency, Region 10
6	Washington Environmental Council
7	Makah Tribe
8	Washington Forest Law Center
9	Pacific Rivers Council
10	Christopher Mendoza, ARC Consultants

Comment Letter One—The Confederated Tribes and Bands of the Yakama Nation stressed the need to ensure that tribal treaty and cultural resources important to their nation be protected, preserved, and enhanced. They want USFWS and NOAA (the Services) to develop, outline, and explain how they will meet National Historic Preservation Act requirements and comply with NHPA Section 106. USFWS must make a good faith effort to identify historic properties by ensuring that professionally reasoned surveys are conducted, project by project, before an incidental take permit (ITP) is issued. They expressed the following additional concerns: a significant amount of forestland will be included under the 20-acre exemption rule, so small forest landowner exemptions should not be granted ITPs or be included in the FPHCP; roads on or through the 20-acre exemption sites may cause adverse impacts on stream systems and aquatic resources; and the wetland management zones for wetlands less than 0.5 acre have no buffer requirements and can be drained or filled with no mitigation measures. The Yakama Nation believes it is highly doubtful that the FPHCP and FEIS will address timber harvest effects on peak flows and hydrology, ultimately enabling adverse impacts on fish and other aquatic resources. They are also concerned that Type Ns streams have no buffer requirements, and proposed protection measures are weak, resulting in potential adverse impacts to water quality, downstream fish, and stream functions. Adaptive management is a slow process and may result in long-term damage while effects are being assessed. A better approach would be the implementation of rules and plans with a likelihood of success. There are funding and staffing concerns attached to adaptive management, so the FPHCP and FEIS should not be approved until they are worked out. The Yakama Nation insists that USFWS finish its consultation before issuing an ITP or decision on the FPHCP and FEIS.



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Comment Letter Two—The Washington Forest Protection Association believes that legal arguments indicate that issuance of ITPs does not constitute an undertaking, as it is defined under NHPA. Therefore, the Services lack legal authority, under NHPA Section 106 or ESA Section 10 to impose requirements on the State to protect cultural resources. Their authority is limited to identifying necessary and appropriate measures that will further conservation of listed species. The Washington Forest Protection Association believes that adoption of the preferred alternative will likely result in benefits to cultural resources because protection of historic properties will be increased or improved in view of existing protection provisions incorporated into the current Washington Forest Practices Rules. The Washington Forest Protection Association believes that the FPHCP and FEIS provide enough assurances that the FPHCP will remain adequately funded into the future because of the Services' right to notify the State of shortfalls, provide the State with an opportunity to correct them, and, ultimately, suspend or terminate ITPs if funding shortfalls interfere with such corrections, coupled with the State's funding performance to date vis á vis the FPHCP and FEIS. In terms of mitigation, the FPHCP imposes stringent stream buffer, road maintenance, and stream crossing requirements. Furthermore, it takes otherwise harvestable trees out of production for the duration of the ITPs, which imposes significant economic impacts to the State economy and the timber industry. The Small Business Economic Impact Statement and associated economic studies provide evidence that the state and the timber industry have mitigated potential take to the maximum extent practical or feasible.

Comment Letter Three—Mary Roberts, Washington State University Cooperative Extension, King County, states that the 50-year proposed term for ITPs seems excessive. She cites lack of information about how the world works and believes that a 50-year ITP is too long in that context.

Comment Letter Four—The Skokomish Nation commented on three issues:

1) implementation and tribal involvement; 2) adaptive management; and 3) small forest landowner rules. Their letter noted that the Timber, Fish, and Wildlife and Forests and Fish Report (TFW/FFR) agreements included tribal participation in FFR and a strong and scientifically based adaptive management program. Funding tribal programs is mandatory; without such assurances, "this deal is a poorly executed one and a major setback for Tribes and salmon recovery efforts statewide." Language should be inserted in the IA regarding potential funding and an outline of how the Services intend to fulfill their responsibilities to Tribes over the next 50 years. The Skokomish Nation has been and continues to be involved in adaptive management, from the Cooperative Monitoring, Evaluation, and Research Committee (CMER), the Scientific Advisory Groups, and in gathering real data to field-verify stream typing. The Nation believes that road maintenance and riparian protection strategies provided through the small forest landowner exemption are inadequate, fail to consider best available scientific and commercial data, and provide landowner benefits at the expense of treaty protected resources. The Nation expects to see the 20-acre exemption abused and aggressive riparian harvest to be common. It fears significant reduction in lands dedicated to forest production and resource protection over the term of the FPHCP. In particular, combining the data sets for the Puget Sound basins in the Kitsap and South Shore of Hood Canal with larger basins draining the Olympic Mountains skews the data, underestimating the effects the exemption would have on Kitsap Peninsula streams, hence Skokomish treaty resources. Therefore, the Services should consider providing the 20-acre



exemption landowners with only partial coverage, with assurances for 10-year increments that could be renewed for additional 10-year periods if warranted. The rationale used to establish riparian guidelines is weak, and applying spurious scientific analysis is disingenuous. Incentives to encourage small forest landowner commitment to timber production and aquatic resource protection are lacking in the FPHCP. The Tribe believes that the FEIS and alternatives analysis comparison are both deficient and inadequate and requests the Services to redo the NEPA analysis.

Comment Letter Five—The U.S. Environmental Protection Agency (EPA) noted that the Washington Department of Ecology (Ecology) establishes timing for total maximum daily loads. It recommends including a goal of determining trends in water quality and aquatic habitat in the intensive monitoring program. An important component of the monitoring program is analysis of the status and trend information to determine whether implementation of the FPHCP results in water quality standards being met. EPA also noted attention be given to potential cumulative effects on watersheds with a high proportion of 20-acre, individually owned parcels. EPA considered the FEIS response to its comment adequate, but urged continued monitoring of harvest within riparian management zones. EPA also recommended that additional details about herbicide use be included in the FEIS, but this was not addressed. EPA recommends that pesticide use and effects continue to be monitored and trends analyzed as part of the overall monitoring strategy.

Comment Letter Six—The Washington Environmental Council requested that its March 4, 2000, comments be incorporated by reference in its current letter. It stated that the FPHCP is incomplete; according to the Washington Environmental Council; there is no guaranteed funding, nor are there indications that it will function as the State asserts. Present rules are not based on the best available science, and the FPHCP does not ensure the survival and recovery of listed species. It lacks enough protection for aquatic species and natural resources to warrant a 50-year ITP.

Comment Letter Seven—The Makah Tribe cited funding cuts for tribal participation and indicated that the FPHCP would not be implemented as intended without tribal management and monitoring programs. The letter notes the FFR authors' failure to recommend sound scientific principles to protect tribal fisheries or ESA species. The Tribe asks that no Federal assurances or ESA coverage be given until a full, detailed evaluation of the functionality and effectiveness of the Washington Forest Practices Rules and adaptive management program is conducted on the ground and at the policy level. The Tribe notes that water quality trends and Clean Water Act (CWA) compliance are scheduled for full evaluation by EPA in 2009 and requests that no assurances be given until the process is complete. The following are specific areas of concern: general lack of funding, problems with enforcement and compliance monitoring, lack of sufficient water quality and sediment pollution protection measures, and incomplete implementation of aquatic habitat protection measures. The Makah Tribe believes the FEIS has major flaws such as: 1) the use of an incomplete economic data analysis to justify the selection of FEIS alternatives; 2) incorrect assumptions that the Road Maintenance and Abandonment Plan (RMAP) process will be fully implemented and lead to sediment reduction; 3) an insufficient consideration of the full range of effects of global climate change; and 4) insufficient coverage of the factors limiting production of Lake Ozette sockeye salmon. The Tribe noted concerns with assumptions include issuing a Federal permit for incidental take of all species for 50 years



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without adequate measures for assessing forest management activities that result in a threatened or endangered listing. Such activities should be subject to restriction. In terms of analysis, the body of scientific knowledge cited throughout the FEIS has not been fully incorporated into the Washington Forest Practices Rules or the FPHCP as the preferred alternative, nor has it been applied on the ground within the Makah usual and accustomed hunting and fishing area (U&A). The Makah Tribe wants recognition in the FEIS as a U&A co-manager of the fisheries resource and the fish allocation in the FPHCP. The Tribe wants specific funding to monitor the FPHCP performance and track conditions on the ground to assess the FPHCP's effectiveness in meeting the goal of minimal incidental take of current and future listed species. The Tribe cited specific concerns over funding, number of staff, general enforcement, compliance monitoring, water quality and CWA, sediment, channel migration zones, fish habitat, and culverts for DNR, Ecology, and the Washington Department of Fish and Wildlife. The Tribe supports using alternate plans to construct better solutions for harvest options that are mutually beneficial to fish and wildlife habitat and efficient for timber extraction. No Federal assurances or ESA coverage should be given until a full evaluation of the functionality and effectiveness of DNR's FPHCP and adaptive management program has been completed. The Tribe never agreed to rely only on CMER for monitoring; hence, it requests co-management status for assessing watershed health. The Tribe expects the Services to demand the aquatic habitat protections needed to provide for survival of the fishery resource upon which the Makah Tribe has relied over centuries. As for economic analysis, the FEIS did not fully analyze the economic effects of forest practices for each alternative, nor did the FEIS adequately compare across uses such as recreation and commercial fishing compared to lumber and wood products employment. The Makah tribal letter provided specific examples illustrating each of the points made in the body of their response.

Comment Letter Eight—The Washington Forest Law Center took issue with the Services' interpretation of adaptive management, noting reliance on "desire for consensus" in the decision-making process, failure to evaluate scientific information from CMER, and position advocacy on behalf of the TFW/FFR Policy Group and the Forest Practices Board. Further, the Washington Forest Law Center said the Services failed to identify a timeframe for action in the face of numerous known uncertainties in the adaptive management program. Under the precautionary principle, management should proceed as low risk, rather than relying on adaptive management to address uncertainties over time. The Washington Forest Law Center raised three issues: 1) the Services have not adequately responded to or solved many issues raised by conservation groups; 2) the Services cannot make a finding that the applicant has minimized and mitigated to the maximum extent practicable in instances when the applicant could, but has chosen not to, do more to eliminate impacts to covered species; and 3) the FPHCP does not adequately explain the applicability and scope of the "no surprises" assurances. The FEIS does not adequately consider the environmental impacts associated with failing to implement adaptive management and cure known deficiencies in the Washington Forest Practices Rules. The IA for issuing and extending ITPs lacks a rigorous and transparent public review mechanism. In addition, a mechanism to ensure landowner compliance is lacking. The State may incrementally reduce the value of the FPHCP's conservation program, stopping only if USFWS and NMFS revoke ITPs, so the Services must bind the State to maintain the Washington Forest Practices Rules at least as protective as the current Rules. Changes to the Washington Forest Practices Rules must be considered changes to the FPHCP, subject to their approval. In addition, the State



must ensure adequate funding for the FPHCP. The FPHCP and FEIS are flawed as they indicate that granting Federal assurances will stem conversion of forestland to other uses. Large industrial landowners have no incentive to keep their lands forested; rather they are driven to sell by desire for short-term profits. The FPHCP lacks assurances that the existing 9.3 million acres of forestland will remain forested. The Services also have failed to require the State to ensure adequate funding for the FPHCP for its 50-year life. The Washington Forest Law Center believes the State has not met ESA Section 10 criteria, so the Services should deny its application for ITPs. The Services are in violation of NEPA in the way they assess the relative environmental and economic impacts of the respective alternatives. They have arbitrarily and capriciously assumed that the Washington Forest Practices Rules can and will deal with cumulative effects, but the Forest Practices Board has never adopted rules that prevent multiple, related forest practices from having a significant adverse cumulative impact on the aquatic environment.

Comment Letter Nine—Pacific Rivers Council finds that the FEIS and FPHCP do not fully disclose the environmental impacts of the proposed action, nor do they adequately prevent significant impairment of the survival and recovery the seven covered amphibians or meet other ESA requirements relative to other covered aquatic species. Performance metrics are inadequate to meet the FPHCP resources objectives, and the State is not bound to comply with performance targets. Pacific Rivers Council deferred comments, until a biological opinion is issued regarding: 1) impacts of management on portions of Type Np and Ns streams; 2) an analytical framework, including specific habitat or population targets needed to determine the long-term viability of amphibians or whether the proposed action causes jeopardy within ESA definitions; 3) take quantification; and 4) addressing unlisted species if listed at some point in the future. Resource objectives may be changed at the discretion of the Forest Practices Board, with the Services' compliance. Performance targets are not defined. Issues remain unaddressed regarding the biological basis for the FPHCP's sediment reduction objectives, the lack of watershed-level road density caps and density reduction targets, the failure of the FPHCP to adequately recognize and address resource risks posed by orphan roads, and the failure of the FEIS to quantify the impacts of small forest landowner exemptions. The triggering mechanisms for denial of ITPs are unclear. The Services assume that no impacts occur from activities in riparian areas, including sediment from yarding corridors and preexisting roads. PRC believes that one habitat element may be so ecologically critical to species survival and recovery that serious interference with that element could cause species jeopardy.

Comment Letter Ten—ARC Consultants believe the FPHCP relies too heavily on experimental design in response to high scientific uncertainty, creating associated risk to listed aquatic species. CMER has been unable to implement the adaptive management program because proposed research and monitoring projects exceed available funds, and there is a lack of staff to carry out the programs, resulting in failure to uphold the Forests and Fish Agreement. The Services did not respond adequately to comments regarding flawed critical area calculations and riparian modeling methods, in particular for Type Np and Type Ns streams. The FPHCP relies so heavily on experimental design as a substitute for upfront conservation measures that aquatic species are at risk of detrimental impact under current forest practices. The FPHCP minimizes riparian protections in the face of scientific uncertainty, hoping that adaptive management research and monitoring will answer difficult questions not addressed at the onset of the FFR negotiations.



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Adaptive management research and monitoring delays add additional risk. Minimal independent scientific oversight in the decision-making process threatens to undermine the scientific credibility of the adaptive management program, in addition to severe structural problems caused by unregulated political intervention in a scientific process. The Services continually defer to the CMER work plan as the answer to most issues with the FPHCP's adaptive management program while they simultaneously cover up and exclude a wealth of CMER, TFW, and DNR research supporting those valid criticisms.



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