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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–2016–N019; FF08ESMF00–FXES1112080000F2–167]

Draft Environmental Assessment for the Candidate Conservation Agreement with Assurances for Fishers in the Klamath, Cascade, and Sierra Nevada Mountains

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and request for comment; permit application, draft environmental assessment, and proposed candidate conservation plan with assurances.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Sierra Pacific Industries (SPI), a California forest management and lumber manufacturing company (applicant), for an enhancement of survival permit (permit) associated with a Candidate Conservation Agreement with Assurances (CCAA) covering the fisher (*Pekania pennanti*). The Service has prepared a draft Environmental Assessment (EA) per the National Environmental Policy Act (NEPA) for the applicant's permit application and the proposed CCAA. If approved, the permit would authorize

incidental take for the Federal candidate fisher within the West Coast Distinct Population Segment (DPS), during forestry operations including commercial timber harvesting on SPI's property in 16 counties in California, if the fisher is listed under the Endangered Species Act of 1973, as amended. We are requesting comment on the permit application, draft environmental assessment, and proposed candidate conservation plan with assurances.

DATE: To ensure consideration, please send your written comments on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Obtaining Documents:* You may request a copy of the proposed CCAA and draft EA by email, telephone, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or comments by any one of the following methods, and specify "SPI CCAA for fishers" in your request or comment.

Submitting Comments: You may submit comments or requests for copies or more information by one of the following methods:

- *Email:* yreka@fws.gov. Include "SPI CCAA for fishers" in the subject line of the message.
- *Telephone:* Robert Carey, U.S. Fish and Wildlife Service, (530) 841-3103.

- *Fax:* Robert Carey, U.S. Fish and Wildlife Service, (530) 842–4517, Attn: SPI CCAA for fishers.
- *U.S. mail:* Robert Carey, Attn: SPI CCAA for fishers, U.S. Fish and Wildlife Service, 1829 S. Oregon Street, Yreka, CA 96097.
- *In-Person Drop-off, Viewing, or Pickup:* Call (530) 841–3103 to make an appointment during regular business hours at the above address to view and comment on the documents.
- *Online:* Documents will be posted online at: <http://www.fws.gov/yreka/>.

FOR FURTHER INFORMATION CONTACT: Robert Carey, U.S. Fish and Wildlife Service, (530) 841–3103 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We announce receipt of an application from Sierra Pacific Industries (SPI), a forest management and lumber manufacturing company (applicant), for an enhancement of survival permit (permit) associated with a Candidate Conservation Agreement with Assurances (CCAA) covering the fisher (*Pekania pennanti*) for a period of 10 years. The Service has prepared a draft Environmental Assessment (EA) per the National Environmental Policy Act (NEPA) for the applicant’s permit application and the proposed CCAA. If approved, the permit would authorize incidental take for the Federal candidate fisher within the West Coast Distinct Population Segment (DPS) if the fisher is listed under the Endangered Species Act (ESA), during forestry operations, including commercial timber harvesting, on SPI’s property in 16

California counties: Amador, Shasta, El Dorado, Tehama, Nevada, Plumas, Calaveras, Siskiyou, Modoc, Tuolumne, Butte, Sierra, Lassen, Trinity, Placer, and Yuba.

Introduction

We announce the availability of our draft EA for the proposed SPI CCAA for fishers in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA), and NEPA implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6, as well as the availability of the applicant's section 10(a)(1)(A) permit application in compliance with section 10(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), which requires notice of applications for permits. The draft EA considers the environmental effects associated with issuing the applicant's requested enhancement of survival permit and implementation of the proposed CCAA, including impacts to the candidate fisher (*Pekani pennanti*) within the West Coast Distinct Population Segment (DPS). Take of fishers would be incidental to the applicant's forestry operations (29 CFR 780.215) and support activities in 16 counties in California.

Background

A Candidate Conservation Agreement with Assurances is an agreement with the Service in which private and other non-Federal landowners voluntarily agree to undertake management activities and conservation efforts on their properties to enhance, restore, or maintain habitat to benefit species that are proposed for listing under the Act, that are candidates for listing, or that may become candidates. These permits encourage non-

Federal property owners to implement conservation measures for species that are, or are likely to become, candidates for Federal listing as endangered or threatened by assuring property owners they will not be subjected to increased property use restrictions if the covered species becomes listed in the future. Application requirements and issuance criteria for permits for enhancement of survival through CCAAs are in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). See also our policy on CCAAs (64 FR 32726; June 17, 1999).

Applicant's Proposal

The applicant requests a 10-year enhancement of survival permit under section 10(a)(1)(A) of the Act, which is accompanied by their CCAA. If we approve the permit application, the applicant anticipates taking fishers as a result of forestry operations and support activities primarily involving harvesting and transporting timber periodically on 1,570, 963 acres of land where fishers are either known to occur or could reasonably be expected to occur in the future. Some forests owned by SPI are used by fishers for breeding, feeding, and sheltering. The take would be incidental to the applicant's routine forestry operations and support activities. The property is located in portions of 16 counties in California, generally occurring in rural regions but with some residential development intermingled with other privately owned lands and publically owned forests. Fishers use large home ranges and are difficult to detect during surveys. Without using telemetry or other methods of marking and recording fisher locations, home ranges are impossible to delineate precisely. Where fishers are known to occur within proximity (3 miles) of SPI's property, the Service has determined that SPI's timber activities may

incidentally take fishers. Other federally listed species that are known to occur on or near SPI lands include northern spotted owls, gray wolves, several amphibians, and three anadromous salmonid runs (Central Valley Steelhead, S. Oregon-Northern California coho, and spring-run Chinook salmon).

To enhance the survival of fishers on the enrolled lands, the applicant proposes to implement conservation actions that limit the removal or degradation of currently suitable fisher habitat, maintain and recruit habitat elements important to fishers, limit the timing of operations to avoid activities during the critical denning period, remove or reduce threats associated with the illegal use of toxic substances by trespassers cultivating marijuana, and reduce the risk of fishers drowning in water tanks. During the 10-year term of the CCAA and ESP, the applicant proposes to maintain on its property the functional characteristic of fisher habitat on roughly 80 percent of the 10,000 acre polygons identified by the Service as having the highest likelihood of supporting a reproductive female fisher and her offspring. The implementation of the CCAA will be funded by SPI's general revenue.

The applicant proposes to continue with their normal forestry operations, which have been ongoing for several decades and are guided by a long-term management plan approved by the California Department of Forestry and Fire Protection under the California Forest Practice Rules (FPRs) at 14 CCR 913.1(a), 933.1(a), 953.1(a) (Option A plan). This demonstration of Maximum Sustained Production (MSP) of high-quality timber products per the FPRs specifies the amount of timber harvest that will occur over a 100-year planning horizon after accounting for constraints associated with protecting non-timber resources such as watershed, wildlife, fisheries quality, and aesthetic values.

One of the conservation measures proposed in the CCAA is to maintain the harvest rate specified in the Option A plan. Under that rate of harvest SPI will keep approximately 50 percent (at least 700,000 acres) of their enrolled property in a mixed age condition. Harvest scheduling will also be constrained where necessary such that 43 of the 54 originally identified high quality fisher areas maintain the functional characteristics of fisher habitat at the landscape scale over the 10-year CCAA. In each timber harvesting unit, habitat elements such as large old trees, defective trees, snags, and hardwoods will be specifically retained and recruited as detailed in the CCAA. The implementation of these conservation measures will be monitored, and over time the effectiveness of these measures for providing functional fisher habitat will be evaluated in adaptive manner allowing for changes, if necessary to achieve the conservation goals.

National Environmental Policy Act Compliance

We provide this notice under section 10(c) of the Act and Service regulations for implementing NEPA. We have prepared a draft EA for the proposed action and have made it and the applicant's proposed CCAA available for public inspection (see **ADDRESSES**). NEPA requires that a range of reasonable alternatives, including the proposed action, be described. The draft EA analyzes three alternatives, described below.

Proposed Action (Preferred Alternative)

We propose issuing an enhancement of survival permit to the applicant, who would implement the CCAA, described above. If we approve the permit, incidental take of fishers would be authorized during the applicant's forestry operations and support

activities should the fisher become listed. With this alternative, incidental take would be reduced from the No Action and Stirling Management area alternative because under the CCAA SPI would be required to reduce the disturbance during the fisher breeding season, maintain large blocks of mixed age class forest, maintain functional landscapes for fishers, retain and recruit habitat elements that are important to fishers, and monitor the implementation and effectiveness of these measures for conserving fishers throughout their property, including the Stirling Management Area.

No Action Alternative

The draft EA includes a No Action alternative; the Service and SPI would not enter into the CCAA and the conservation measures would not be implemented. Under the No Action alternative, impacts to fishers would likely continue at the current rate. Under this alternative, SPI would continue with their ongoing operations guided by the California Forest Practice Rules, other local, State and Federal regulatory frameworks including the ESA.

Excluding the SPI Stirling Management Area from the CCAA Alternative

Under this alternative, SPI's 159,966-acre Stirling Management Area (SMA) would be excluded from the CCAA. In 2005, in response to concerns over the absence of fishers in portions of their historical occupied range, the Service and the California Department of Fish and Wildlife (CDFW) began considering translocation of fishers to reestablish fishers in historically occupied areas. The Service and SPI entered into a

CCAA and the Service issued an ESP that would authorize SPI's take of fishers in the event the translocation was successful and if the fisher is listed. Between 2009 and 2011, 40 fishers were translocated to the SMA. The Stirling CCAA requires fewer conservation measures than the proposed CCAA and will expire on April 14, 2028. Under Alternative 3 (excluding the SMA from the proposed CCAA), the environmental impacts from SPI's forestry operations and support activities would be identical to those under the Proposed Action; however, the SMA would be managed under the previous CCAA rather than the proposed CCAA.

Public Review

The Service invites the public to comment on the permit application, including the proposed CCAA and draft EA, during the public comment period (see **DATES**). If you wish to comment, you may submit your comments via one of the means listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

Issuance of an enhancement of survival permit is a Federal action subject to compliance with NEPA. We will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a permit to the applicant for the incidental take of fishers that becomes effective if fishers are listed. We will not make our final decision until after the 30-day public comment period ends.

Alexandra Pitts,
Deputy Regional Director,
Pacific Southwest Region,
Sacramento, California.

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