



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R1–ES–2022–0029; ES11140100000–256–FF01E0000]

Final Environmental Impact Statement for the Elliott State Research Forest Habitat Conservation Plan in Coos and Douglas Counties; Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; final environmental impact statement.

SUMMARY: The U.S. Fish and Wildlife Service (FWS) announces the availability of a final environmental impact statement (FEIS) for the evaluation of incidental take permit applications and a supporting habitat conservation plan (HCP) developed by the Oregon Department of State Lands (ODSL; applicant). The applicant seeks incidental take permits from FWS and the National Marine Fisheries Service (together, the Services) to authorize the incidental take of three species expected to result from research and management activities on the Elliott State Research Forest in Coos and Douglas Counties, Oregon. With this notice, we also make available the final Elliott State Research Forest Habitat Conservation Plan submitted by the applicant.

DATES: The Services' decisions on the incidental take permit applications will occur no sooner than 30 days after publication of the U.S. Environmental Protection Agency's notice of availability of the FEIS in the **Federal Register**, and will be documented in records of decision by the Services.

ADDRESSES: You may obtain copies of the HCP and FEIS by any of the following methods:

- *Internet:* <https://www.regulations.gov> (search for Docket No. FWS–R1–ES–2022–0029) or at <https://www.fws.gov/project/elliott-state-research-forest-habitat-conservation-plan>.

- *Phone:* You may call Shauna Everett at 503–231–6949, to request alternative formats of the documents.

FOR FURTHER INFORMATION CONTACT: Shauna Everett, U.S. Fish and Wildlife Office, Oregon Fish and Wildlife Office (see **ADDRESSES**), by telephone at 503–231–6949, or by email at shauna_everett@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (FWS) announce the availability of a final environmental impact statement (FEIS) to address the Oregon Department of State Lands’ (ODSL; applicant) proposal related to its activities in managing the Elliott State Research Forest (ESRF) pursuant to ODSL’s Habitat Conservation Plan (ESRF HCP). In accordance with the requirements of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the applicant seeks an incidental take permit (ITP) authorizing take of the threatened northern spotted owl (*Strix occidentalis caurina*), threatened marbled murrelet (*Brachyramphus marmoratus*), and threatened Oregon Coast coho salmon (*Oncorhynchus kisutch*) (together, the covered species). Incidental take permits for the northern spotted owl and marbled murrelet fall under the jurisdiction of FWS; incidental take permits for the Oregon Coast coho salmon fall under the jurisdiction of the National Marine Fisheries Service (NMFS) (together, the Services).

If issued, the ITPs would authorize take of the covered species that may occur incidental to a variety of research and management activities on the Elliott State Research Forest (ESRF) in Coos and Douglas Counties, Oregon, for a period of 80 years. In support of the ITP applications, ODSL prepared the ESRF HCP to specify the impacts

that will likely result from the take of covered species and the steps the applicant would take to avoid, minimize, and mitigate such impacts. The applicant's HCP also explains proposed monitoring and adaptive management procedures, changed circumstances, and funding assurances for HCP implementation.

The Service, with input from NMFS, Oregon Department of Forestry (ODF), and the Oregon Department of Fish and Wildlife (ODFW) as cooperating agencies, prepared the Final EIS pursuant to the Council on Environmental Quality's (CEQ's) implementing NEPA regulations at 40 CFR parts 1500-1508, effective on May 20, 2022 (87 FR 23453) and the Department of the Interior's NEPA regulations at 43 CFR part 46. The Final EIS provides updates and clarifications to information presented in the Draft EIS, including revisions in response to issues raised in comments received during the public review period for that document, and identifies a preferred alternative.

Background

Section 9 of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) prohibits "take" of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538 and 16 U.S.C. 1533). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term "take" means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct" (16 U.S.C. 1532(19)). The term "harm" is defined by FWS regulations as "an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering" (50 CFR 17.3; see 50 CFR 222.102 for NMFS regulations).

Under section 10(a) of the ESA, the Services may issue permits to authorize incidental take of listed fish and wildlife species. "Incidental take" is take that is

incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicant will ensure that adequate funding for the plan will be provided;
4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
5. The applicant will carry out any other measures that FWS (or NMFS) may require as being necessary or appropriate for the purposes of the HCP.

ODSL is requesting authorization of incidental take of the threatened northern spotted owl (*Strix occidentalis caurina*), threatened marbled murrelet (*Brachyramphus marmoratus*), and threatened Oregon Coast coho salmon (*Oncorhynchus kisutch*) (together, the covered species) for covered activities in management of the ESRF located in Coos and Douglas Counties in southwestern Oregon. ODSL is seeking authorization for incidental take for a variety of research and management activities, including forest research treatments, timber removal, forest and species research projects, supporting management activities, supporting infrastructure management, and activities identified in the conservation strategy and monitoring program that may result in effects on covered species. These activities and the effects on covered species and the environment are described further in the HCP and FEIS. The proposed permit term is 80 years.

Measures to minimize and mitigate impacts on covered species are described in the HCP for each species as conservation measures and conditions on covered activities, guided by goals and objectives in the conservation strategy of the HCP. ODSL would monitor implementation of these measures for compliance and effectiveness.

Minimization and mitigation measures are subject to adaptive management to ensure achievement of the ESRF HCP's biological goals and objectives.

The ESRF HCP includes funding information and assurances, monitoring requirements, adaptive management, and provisions for changed and unforeseen circumstances to help ensure conservation outcomes for the covered species over the permit term. Annual reports to the Services would confirm the amount, type, and location of impacts and mitigation, as well as the status of monitoring, adaptive management, changed circumstances, and funding.

National Environmental Policy Act

The proposed issuance of an ITP supported by the HCP is a Federal action under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.). The EIS was prepared consistent with the Council on Environmental Quality's NEPA regulations (40 CFR 1500-1508, May 2022) and the Department of the Interior's NEPA regulations (43 CFR part 46). FWS is the Federal lead agency responsible for preparing the EIS; NMFS, ODF, and ODFW were cooperating agencies. As a cooperating agency, NMFS may adopt the EIS in accordance with 40 CFR 1506.3.

The purpose of the Federal action considered in the EIS is to fulfill the Services' section 10(a)(1)(B) conservation authorities and obligations under the ESA to address the applications requesting authorization of incidental take of three species listed as threatened under the ESA, the northern spotted owl, marbled murrelet, and Oregon Coast coho salmon. The need for the Federal action is to respond to the applicant's request for incidental take permits for the covered species and covered activities as described in the HCP.

The proposed action, identified as the preferred alternative in the FEIS, is the issuance of an ITP and implementation of the HCP. The FEIS analyzed the proposed action, a no action alternative, and two alternatives to the proposed action, including the

environmental consequences of each alternative. All action alternatives include issuance of an ITP for take of three covered species.

Public Involvement

FWS published a notice of intent to prepare an EIS, opening a public scoping period on May 5, 2022 (87 FR 26778), which closed on June 6, 2022. A virtual public scoping meeting was held May 16, 2022. FWS prepared a DEIS and opened a 45-day public comment period on the DEIS and draft HCP on November 18, 2022 (87 FR 69291), followed by a 7-day extension (published December 20, 2022, 87 FR 77877). A virtual public meeting was held on December 13, 2022, during the comment period, which ended on January 10, 2023. A total of 170 public comments were received during the DEIS comment period, including duplicates. In preparing the FEIS, FWS considered all of the public comments on the DEIS and draft HCP, and the FEIS includes a response to substantive comments received.

Environmental Protection Agency's Role in the EIS Process

The Environmental Protection Agency (EPA) is charged under section 309 of the Clean Air Act with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions. Under the CEQ NEPA regulations, EPA is also responsible for administering the EIS filing process. EPA is publishing a notice in the *Federal Register* announcing this FEIS. EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

Next Steps and Decision to Be Made

FWS will evaluate the associated documents and public comments received in reaching a final decision on the proposed issuance of ITPs. No earlier than 30 days after the EPA's notice of the FEIS is published in the *Federal Register*, FWS expects to

complete a record of decision pursuant to 40 CFR 1505.2, in accordance with applicable timeframes established in 40 CFR 1506.11. FWS expects to issue a record of decision by spring 2025. NMFS will independently document their decision at the conclusion of the ESA and NEPA compliance processes.

Authority

We provide this notice in accordance with the requirements of NEPA and its implementing regulations (40 CFR 1506.6).

Katherine Norman,

Acting Deputy Regional Director, Pacific Region.

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