



United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

MAR - 7 2003

In Reply Refer To

FWS/R6
ES/UT

March 5, 2003

Diane Freeman
Fishlake National Forest
115 East 900 North
Richfield, Utah 84701

Dear Ms. Freeman:

The U.S. Fish and Wildlife Service (Service) has received notice of your intent to prepare an EIS for the Pahvant Interagency Fuels Reduction Project. The purpose of the project is to reduce hazardous fuels by reducing fuel heights and loads. The project proposes to cut, pile/scatter, and burn vegetation over approximately 16,000 acres along the western slopes of the Pahvant mountain range. The seven treatment units range in size from approximately 490 to 4,935 acres. We are providing the following comments for your consideration in your EIS.

Consistent with NEPA regulation 40 CFR § 1503.1(a)(1) that the action agency shall obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved, we are responding to your request for concerns and comments on this EIS. In Section 1 of this letter we convey our concerns that should be addressed in the NEPA compliance document for this project. Section 2 of this letter addresses your Endangered Species Act (ESA) Section 7 responsibilities.

Section 1.

We recommend the EIS contain a brief description of the historic fire regime for this forest type. It would be helpful to understand the deviation between recent conditions and the historic disturbance cycle.

Each alternative should discuss how sensitive fish and wildlife habitats and/or seasons would be avoided or protected. The EIS should consider the effects of altering the size and timing of vegetation treatments as these factors can influence the impacts of such projects on wildlife and their habitats. As these project areas fall within critical winter range for mule deer, we recommend the EIS consider effects, both positive and negative, to this species.

Wetland and riparian areas are sensitive habitats which are relatively scarce and highly valuable to many species of insects, amphibians, reptiles, fishes, birds and mammals. Impacts to these areas should be avoided to the greatest extent possible.

We recommend the EIS describe completely potential effects the project may have on inventoried roadless areas, with any proposed treatments thoroughly analyzed. Each alternative should be evaluated with respect to potential levels and types of disturbance in this area.

We recommend that the project be designed to retain some snags and downed wood. Snags are a valuable, and sometimes scarce, component of habitat for many birds and mammals. Many more species of invertebrates and vertebrates i.e., insects, amphibians, reptiles, mammals, and birds make some use of decaying logs. Downed wood provides nutrient capital, water economy, soil organic reserves, structural component, and plant and animal habitat. Current research indicates that 10 logs/acre or 10 tons/acre is a minimum in intermountain forests (Torgenson, 2001).

Mexican spotted owl may have potential habitat particularly in the Horse Hollow and Meadow units. We recommend these canyon areas be inventoried to determine if suitable habitat is present.

The MBTA prohibits the take of migratory birds, their parts, nests, eggs, and nestlings. Executive Order 13186, issued on January 11, 2001, affirmed the responsibilities of Federal agencies to comply with the MBTA. It also required development of a strategy for the Service to work with Federal agencies to conserve priority species by avoiding and minimizing unintentional take and taking actions to benefit these same species to the extent practicable.

We recommend use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck, 2002) which were developed in part to provide consistent application of raptor protection measures statewide and provide full compliance with environmental laws regarding raptor protection. Raptor surveys and mitigation measures are provided in the Raptor Guidelines as recommendations to ensure that proposed projects will avoid adverse impacts to raptors, including the peregrine falcon. Locations of existing raptor nests should be identified prior to initiation of treatments. Direct loss of nesting sites or territories should be avoided. Appropriate spatial buffer zones of inactivity should be established during crucial breeding and nesting periods relative to raptor nest sites or territories. Arrival at nesting sites can occur as early as December for certain raptor species. Nesting and fledging continues through August. Generally we recommend spacial buffers of 1.0 mile for threatened or endangered raptors, 0.5 mile for other diurnal raptors, and 0.25 mile for nocturnal raptor nests.

We recommend that inventory for invasive plant species becomes part of all action alternatives. Detailed inventory and mapping of invasive species in and near treatment areas could identify potential problems. Each alternative should be evaluated with regard to the potential for increased spread of invasive species and describe the measures to be taken to avoid and/or control invasive plant species.

Monitoring should be conducted to determine the effectiveness of the treatments in achieving objectives. A monitoring plan should specify monitoring frequency, duration, and data storage. The EIS should include a description of the monitoring plan.

Section 2.

Federal agencies have specific additional responsibilities under Section 7 of the ESA. To help you fulfill these responsibilities, we are providing an updated list of threatened (T), endangered (E) and candidate (C) species that may occur within the area of influence of your proposed action.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Bald Eagle ¹	<i>Haliaeetus leucocephalus</i>	T
Western Yellow-billed Cuckoo	<i>Coccyzus americanus occidentalis</i>	C
Utah Prairie Dog	<i>Cynomys parvidens</i>	T

¹ Wintering populations (only four known nesting pairs in Utah).

The proposed action should be reviewed and a determination made if the action will affect any listed species or their critical habitat. If it is determined by the Federal agency, with the written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is complete, and no further action is necessary.

Formal consultation (50 CFR 402.14) is required if the Federal agency determines that an action is "likely to adversely affect" a listed species or will result in jeopardy or adverse modification of critical habitat (50 CFR 402.02). Federal agencies should also confer with the Service on any action which is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10). A written request for formal consultation or conference should be submitted to the Service with a completed biological assessment and any other relevant information (50 CFR 402.12).

Candidate species have no legal protection under the Endangered Species Act (ESA). Candidate species are those species for which we have on file sufficient information to support issuance of a proposed rule to list under the ESA. Identification of candidate species can assist environmental planning efforts by providing advance notice of potential listings, allowing resource managers to alleviate threats and, thereby, possibly remove the need to list species as endangered or threatened. Even if we subsequently list this candidate species, the early notice provided here could result in fewer restrictions on activities by prompting candidate conservation measures to alleviate threats to this species.

Only a Federal agency can enter into formal Endangered Species Act (ESA) section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

Your attention is also directed to section 7(d) of the ESA, as amended, which underscores the requirement that the Federal agency or the applicant shall not make any irreversible or irretrievable commitment of resources during the consultation period which, in effect, would deny the formulation or implementation of reasonable and prudent alternatives regarding their actions on any endangered or threatened species.

Please note that the peregrine falcon which occurs in all counties of Utah was removed from the federal list of endangered and threatened species per Final Rule of August 25, 1999 (64 FR 46542). Protection is still provided for this species under authority of the Migratory Bird Treaty Act (16 U.S.C. 703-712).

The following is a list of species that may occur within the project area and are managed under Conservation Agreements/Strategies. Conservation Agreements are voluntary cooperative plans among resource agencies that identify threats to a species and implement conservation measures to proactively conserve and protect species in decline. Threats that warrant a species listing as a sensitive species by state and federal agencies and as threatened or endangered under the ESA should be significantly reduced or eliminated through implementation of the Conservation Agreement. Project plans should be designed to meet the goals and objectives of these Conservation Agreements.

Bonneville Cutthroat Trout
Least Chub
Spotted Frog

Oncorhynchus clarki utah
Iotichthys phlegethontis
Rana luteiventris

We appreciate the opportunity to provide these comments. If you need further assistance, please contact Betsy Herrmann, Fish and Wildlife Biologist, at the letterhead address or (801) 975-3330 ext. 139.

Sincerely,



for Henry R. Maddux
Utah Field Supervisor

cc: UDWR - SLC
FWS - Region 6 NEPA Coordinator (Attn: Grady Towns)
Department of Interior, Regional Environmental Officer, Denver Federal Center (Attn:
Robert F. Stewart)

Literature Cited

Romin, L.A., and J.A. Muck. 1999. U.S. Fish and Wildlife Service. Utah field office guidelines for raptor protection from human and land use disturbances.

Torgerson, T. R. 2001. Characteristics of Log Resources in Northeastern Oregon-Case Studies of Four Management Treatments. Manuscript In Review. U.S. Forest Service. LaGrande Forest Research Station.