

RECORD OF DECISION

for the

Proposed Issuance of a Multiple Species Incidental Take Permit to Simpson Timber Company, Northwest Operations

This Record of Decision (ROD) was developed by the U.S. Fish and Wildlife Service and National Marine Fisheries Service (together the Services) in compliance with both agencies decision-making requirements, pursuant to the National Environmental Policy Act of 1969, as amended (NEPA). The purpose of this ROD is to document the decision of the Services, in response to applications for Incidental Take Permits (ITPs) (USFWS-PRT-TE032463-0, NMFS-PRT-1265) for species listed under the Endangered Species Act of 1973, as amended (Act), based on the submission of a Habitat Conservation Plan (HCP) by Simpson Timber Company, Northwest Operations (Simpson). The ITP application and supporting HCP were submitted to the Services pursuant to section 10(a)(1)(B) of the Act.

This ROD is designed to: (1) state the Service's decision, present the rationale for its decision, and describe its implementation; (2) identify the alternatives considered in the 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).

Project Description

Simpson made application to the Services for two ITPs, one from the USFWS for species under its jurisdiction and one from NMFS for species under its jurisdiction. The ITPs would apply to approximately 261,575 acres of Simpson-owned lands in Mason, Thurston, and Gray's Harbor Counties, Washington. The NMFS ITP would apply to Puget Sound chinook salmon and Hood Canal summer run chum salmon, both of which are listed as threatened under the Act. The NMFS ITP would also apply to three currently unlisted species, should they become listed in the future (Appendix A). The USFWS ITP would apply to three threatened species including marbled murrelet, bald eagle, and bull trout. The USFWS ITP would also apply to 43 currently unlisted species, should they become listed in the future (Appendix A). The HCP would provide conservation benefits to all 51 species.

Issuance of the ITPs would be conditioned on the implementation of the HCP designed to provide conservation benefits to the species for which incidental take would be authorized. Simpson developed its HCP with technical assistance from the Services. Activities proposed for coverage under the ITPs include: all aspects of mechanized timber harvest, log transportation,

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FEIS for Simpson Timber Company, Northwest Operations, ITP/HCP

road construction, road maintenance and abandonment, site preparation, tree planting, fertilization, silvicultural thinning, experimental silviculture, controlled burns, wild fire suppression, stream restoration, vertebrate control, electrofishing, and the management, harvest, and sale of minor forest products. The ITPs and Plan would also cover certain monitoring activities and related scientific experiments in the Plan area. The duration of the proposed ITPs and Plan is 50 years.

As an additional measure, Simpson and the Services collaborated with the Environmental Protection Agency and the Washington Department of Ecology in the preparation of a Total Maximum Daily Load (TMDL) Technical Assessment. The TMDL was developed to address fisheries concerns on several tributaries and streams located on Simpson lands within the Action Area. The TMDL addresses two pollutants, heat and sediment. These two pollutants are major determinants of water quality that affect aquatic life, including salmon and native fish. Although neither the HCP or TMDL are legally dependant on the other, much of the of the information and analysis developed for the preparation of the HCP was used in developing the TMDL. The primary link between the HCP and TMDL is that if the sediment or heat load allocations identified in the TMDL are not achieved, the management prescriptions of the HCP may be subject to modification. The TMDL Technical Assessment Report is included as an appendix to the HCP.

Decision

Based upon the review of the alternatives and their environmental consequences described in the draft EIS and final EIS, and a review of Simpson's HCP (Simpson Timber Company 2000), the Implementing Agreement (IA) between the Services and the Applicant, each Services' Biological Opinion (NMFS 2000, USFWS 2000a), and each Services' Statement of Findings (NMFS 2000, USFWS 2000b)(all herein incorporated by reference), the Services decision is to adopt Simpson's HCP Alternative and issue Incidental Take Permits to Simpson Timber Company pursuant to section 10(a)(1)(B) of the Act for the take of marbled murrelet, bald eagle, Puget Sound chinook salmon, Hood Canal summer run chum salmon, and bull trout, and 46 currently unlisted species under specific provisions of the ITPs, should these species be listed under the Act during the term of the 50-year ITP pursuant to the Services' joint "No Surprises" Rule (50 CFR Parts 17 and 22).

Alternatives

Scoping identified five alternative management scenarios which were subsequently analyzed in the EIS. These included: (1) a No Action Alternative; (2) a Forests and Fish Report Alternative;

(3) Simpson's HCP Alternative; (4) a Modified Northwest Forest Plan Alternative; and (5) a Northwest Forest Plan Alternative. Alternatives 2, 3, and 4 were analyzed in detail by comparing them against the No Action Alternative.

The Services took an additional step in the EIS analysis because of recently proposed changes to Washington State Forest Practices Rules. These proposed changes are embodied in a document known as the Forests and Fish Report. This additional step compared alternatives 3 and 4 against alternative 2, the Forests and Fish Report Alternative, in effect treating Alternative 2 as a second no action alternative.

Alternative 5 was dismissed from detailed analysis because it did not fulfill the Service's purpose and need. The Service's purpose and need in this action is to respond to Simpson's ITP application in a manner which: (1) provides protection and conservation to listed and proposed species and their habitats to the extent intended under §10(a)(1)(b) of the Act; and (2) allows Simpson to continue its forestland management and timber harvest activities in a practical manner. Specifically, it would not allow Simpson to continue operating in an economically practical manner.

Following is a brief description of the five alternatives.

- (1) No Action Alternative: This management would be the same as, or similar to, Simpson's current forest practices, as directed by the Washington Forest Practices Rules (WFPR) and Simpson's land management policies. Future WFPR most likely will include provisions of the Forests and Fish Report Recommendations (Alternative 2). However, those potential changes could not be included in the No Action Alternative because they are not final Forest Practices Rules and therefore are subject to change.
- (2) State Forestry Regulations with the Forests and Fish Report Recommendations: Management would be conducted according to the proposed Washington Forest Practices Regulations revisions, as described in Alternative 2 of the Washington Forest Practices Board's Draft *Environmental Impact Statement on Alternatives for Forest Practices Rules for Aquatic and Riparian Resources*, dated March 2000. Endangered Species Act coverage for this alternative would only be for three amphibian species and the same fish species as covered in Alternative 3 (including bull trout, assuming completion of a bull trout 4(d) rule for the proposed revised State Forest Practices Rules).
- (3) Simpson's Habitat Conservation Plan Alternative (Proposed Action): Management would follow prescriptions identified in the Simpson Timber

Company Habitat Conservation Plan (HCP) for fish and wildlife species in the 261,575-acre Action Area, and an ITP would be issued for those species. HCP and ITP obligations for all the fish species and three amphibians would supersede the Forests and Fish Report Recommendations specifically developed to conserve those species.

- (4) Modified Northwest Forest Plan Alternative: Management would follow a modified version of the Northwest Forest Plan (NWFP) which would provide conservation at approximately the mid-way point between that of Alternatives 3 and 5. Washington Forest Practices Rules would be applied where NWFP guidelines are not defined. An HCP would be implemented for the same fish and wildlife species covered by Alternative 3, and an ITP would be issued for those species.
- (5) Northwest Forest Plan Alternative: Management would follow the standards and guidelines identified for the Northwest Forest Plan (NWFP). Washington Forest Practice Rules would be applied where NWFP guidelines are not defined. An HCP would be implemented for the same fish and wildlife species covered by Alternative 3, and an ITP would be issued for those species.

Rationale for Decision

Decision. Simpson's Habitat Conservation Plan Alternative, Alternative #3 (the Proposed Action), was adopted because it meets the statutory criteria for issuance of an ESA Section 10 Incidental Take Permit (USFWS and NMFS 2000). Alternative 3 would provide more balance between regional economic stability and the needs of the species listed on the ITP, as compared with Alternatives 1, 2, and 4.

Conditions. Since the Applicant's HCP was found to meet the statutory criteria for issuance of an ESA Section 10 Incidental Take Permit, the Services concluded it was not necessary to condition the ITP using features of the other feasible alternatives.

Environmentally Preferred Alternative. The Modified Northwest Forest Plan Alternative, Alternative 4, is the environmentally preferable alternative. Alternative 4 would provide greater conservation to riparian dependent species because of the increased area of higher quality habitat in the riparian reserves, and reduced sediment from roads as compared to the other alternatives.

The Services did not condition the ITP using features of Alternative 4 because the substantial loss of harvestable acreage under Alternative 4 over the 50 year plan period would most likely

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result in extensive long-term economic impacts to Simpson Timber Company and the local community. Conservation area set-asides required under Alternative 4 would lower harvestable acreage by approximately 24 percent as compared to Alternative 1 (No Action); set-asides under Alternative 3 would lower harvestable acreage by approximately 4 percent.

Approximately 75 percent of the timber resource that sustains Simpson's lumber mill in Shelton, Washington, originates from lands within the Action Area. The large cutbacks in harvestable acreage resulting from Alternative 4 could seriously affect Simpson's ability to sustain that mill operation and other operations within a highly competitive industry.

Simpson is the largest employer within Mason County. Economic losses resulting from implementing Alternative 4 would also result in economic losses to Mason County. Hundreds of employees and timber/road management contractors rely on the timber management in the Action Area. Implementing Alternative 4 could lead to a substantial decrease in the company and the community employment, as compared with Alternative 1. In contrast, Alternative 3 would lead to substantially less adverse impact on the company, the community economy and community employment.

Reducing timber related jobs in Mason county would have a greater cumulative effect on the local economy than reductions in other employment sectors. Alternative 1 would provide the most timber related jobs, but it would also provide the least economic and social certainty, resulting in a possible cumulative reduction in community and regional stability. Alternative 3 would provide more balance among timber related jobs, economic stability and permit species habitat needs, as compared with Alternatives 1 and 4.

It is highly unlikely that Simpson Timber Company would continue its pursuit of a ITP and implementation of the HCP if the Services were to adopt Alternative 4 for implementation. Consequently the Services would not obtain Simpson's 50 year commitment to provide conservation contributions to listed and unlisted species covered in the plan.

Public Involvement

The Services formally initiated an environmental review of the project through a Notice of Intent to prepare an Environmental Impact Statement in the Federal Register on February 9, 1999 (64 FR 6325). This notice also 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 Statement.

A draft EIS was subsequently produced and made available for a 62-day public review period on

October 22, 1999 (64 FR 57630). The comment period was extended for 18 days to January 14, 2000 (65 FR 761), in direct response to requests from the public. This resulted in a total comment period duration of 80 days.

Nineteen comment letters were received by the Services: 4 from government agencies; 5 from tribal representative organizations; 7 from public interest groups; and 3 from individual citizens. Many of the comments and suggestions were incorporated into the proposed HCP and FEIS. Appendix D of the FEIS contains a summary of those comments, the Service's responses, and a summary of changes made to the HCP and EIS.

The Final Environmental Impact Statement was noticed in the Federal Register on July 20, 2000 (65 FR 45038). Three public interest groups submitted comment letters regarding the FEIS. Summaries and responses to those comments are contained in Appendix B of this document.

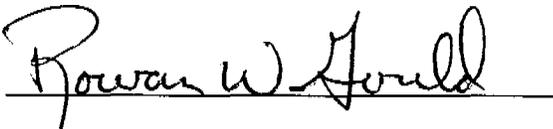
It is noteworthy to point out that the public process had substantial influence on the final outcome of this proposal. A number of substantive changes were made in the proposed HCP and DEIS as a direct result of public comments. These changes were incorporated into the final HCP and EIS. All comment letters received by the Services regarding the final documents acknowledged positive conservation changes.

Citations

- National Marine Fisheries Service. 2000. Biological Opinion, Unlisted Species Analysis, and Section 10 Findings for the Proposed Issuance of a Section 10 Incidental Take Permit to the Simpson Timber Company, for the Northwest Timberlands Habitat Conservation Plan. Lacey, Washington.
- Simpson Timber Company. July 2000. Habitat Conservation Plan, Shelton, Washington Timberlands. Shelton, Washington.
- Simpson Timber Company, US Fish and Wildlife Service, and National Marine Fisheries Service. October 2000. Implementation Agreement for the Simpson Timber Company Habitat Conservation Plan by and among Simpson Timber Company, National Marine Fisheries Service, and U.S. Fish and Wildlife Service. Shelton, Washington.
- U.S. Fish and Wildlife Service. 2000a. Biological and Conference Opinion on the Proposed Issuance of a Multiple Species Incidental Take Permit (PRT-TE032463-0) in Association with the Simpson Timber Company, Northwest Operations, Habitat Conservation Plan. Lacey, Washington.
- U.S. Fish and Wildlife Service. 2000b. Findings and Recommendations for the Proposed Issuance of Incidental Take Permits (USFWS-PRT-TE032463-0) in Association with the Simpson Timber Company, Northwest Operations, Habitat Conservation Plan. Lacey, Washington.
- U.S. Fish and Wildlife Service and National Marine Fisheries. 2000. Final Environmental Impact Statement for the Proposed Issuing of a Multiple Species Incidental Take Permit on Simpson Washington Timberlands.

Signatures

OCT 12 2000

A handwritten signature in cursive script, reading "Rowan W. Gould", written over a horizontal line.

Rowan Gould, Deputy Regional Director
Region 1
U.S. Fish & Wildlife Service

OCT 13 2000

A handwritten signature in cursive script, reading "Joe Scordino", written over a horizontal line.

Joe Scordino, Assistant Regional Administrator
Northwest Region
National Marine Fisheries Service

Appendix A. Species Covered by the Simpson HCP.

Table A-1. Simpson ITP/HCP Fish Species.

Species	USFWS Responsibility	NMFS Responsibility	Federal Status
Steep Tributary Species Association			
Coastal cutthroat trout (<i>Oncorhynchus clarki clarki</i>)	X		P
Shorthead sculpin (<i>Cottus confusus</i>)	X		
Flat Tributary Species Association			
Coho salmon (<i>Oncorhynchus kisutch</i>)		X	
Chum salmon (<i>Oncorhynchus keta</i>)		X	T
Riffle sculpin (<i>Cottus gulosus</i>)	X		
Coast Range sculpin (<i>Cottus aleuticus</i>)	X		
Reticulate sculpin (<i>Cottus perplexus</i>)	X		
Speckled dace (<i>Rhinichthys osulus</i>)	X		
Brook lamprey (<i>Lampetra richardsoni</i>)	X		
Mainstem Species Association			
Chinook salmon (<i>Oncorhynchus tshawytscha</i>)		X	T
Steelhead trout (<i>Oncorhynchus mykiss</i>)		X	
Pink salmon (<i>Oncorhynchus gorbuscha</i>)		X	
Bull trout (<i>Salvelinus confluentus</i>)	X		T
Dolly varden (<i>Salvelinus malma</i>)	X		
Torrent sculpin (<i>Cottus rotheus</i>)	X		
Longnose dace (<i>Rhinichthys cataractae</i>)	X		
Pacific lamprey (<i>Lampetra tridentatus</i>)	X		SC
River lamprey (<i>Lampetra ayresi</i>)	X		SC
Lentic Species Association			
Prickly sculpin (<i>Cottus asper</i>)	X		
Olympic mudminnow (<i>Novumbra hubbsi</i>)	X		
Threespine stickleback (<i>Gasterosteus aculeatus</i>)	X		

^a Species Status: E = Endangered; SC = Species of Concern; T = Threatened; P = Proposed for listing

Table A-2. Simpson ITP/HCP Wildlife Species.

Species	USFWS Responsibility	NMFS Responsibility	Federal Status
Mammals			
Roosevelt elk (<i>Cervus elaphus</i>)	X		
Birds			
Marbled murrelet (<i>Brachyramphus marmoratus</i>)	X		T
Bald eagle (<i>Haliaeetus leucocephalus</i>)	X		T
Harlequin duck (<i>Histrionicus histrionicus</i>)	X		
Band-tailed pigeon (<i>Columba fasciata</i>)	X		
Snag Dependent Species			
Pilcated woodpecker (<i>Dryocopus pileatus</i>)	X		
Wood duck (<i>Aix sponsa</i>)	X		
Western bluebird (<i>Sialia mexicana</i>)	X		
Purple martin (<i>Progne subis</i>)	X		
Common merganser (<i>Mergus merganser</i>)	X		
Downy woodpecker (<i>Picoides pubescens</i>)	X		
Black-capped chickadee (<i>Parus atricapillus</i>)	X		
Chestnut-back chickadee (<i>Parus rufescens</i>)	X		
Red-breasted sapsucker (<i>Sphyrapicus ruber</i>)	X		
Tree swallow (<i>Tachycineta bicolor</i>)	X		
Violet-green swallow (<i>Tachycineta thalassina</i>)	X		
Hairy woodpecker (<i>Picoides villosus</i>)	X		
Western screech owl (<i>Otus kennicotti</i>)	X		
Northern pigmy owl (<i>Glaucidium gnoma</i>)	X		
Northern saw-whet owl (<i>Aegolius acadicus</i>)	X		
Northern flicker (<i>Colaptes auratus</i>)	X		
Amphibians and Reptiles			
Torrent salamander (<i>Rhyacotriton olympicus</i>)	X		SC
Tailed frog (<i>Ascaphus truei</i>)	X		SC
Van Dyke's salamander (<i>Plethodon vandykei</i>)	X		SC
Cope's giant salamander (<i>Diacamptodon copei</i>)	X		
Western red-backed salamander (<i>Plethodon vehiculum</i>)	X		
Western toad (<i>Bufo boreas</i>)	X		SC
Northwestern salamander (<i>Ambystoma gracile</i>)	X		
Long-toed salamander (<i>Ambystoma macrodactylum</i>)	X		
Red-legged frog (<i>Rana aurora</i>)	X		

* Species Status: E = Endangered; SC = Species of Concern; T = Threatened; P = Proposed for listing

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Appendix B. Comment Letters pertaining to the FEIS and the Services Responses.

Introduction

Three public interest groups submitted comment letters regarding the FEIS and HCP. The commenters included the Pacific Rivers Council, American Lands Alliance, and The Mountaineers. Following is a discussion of those comments and responses to some of the specific points made.

In general, each commenter asserted 3 things: (1) that in some instances positive changes were incorporated into the FHCP and FEIS which reflected their comments on the draft documents; (2) that in some instances negative changes were incorporated into the FHCP and FEIS which corresponded to their comments on the draft documents; and (3) that in other instances changes corresponding to their comments on the draft documents were not made or incorporated into the FHCP and FEIS.

No new or compelling information was offered in these comments that the Services believe would dictate substantive changes to the July 2000 drafts of these documents. Nor was there any information that would alter the non-jeopardy conclusions in either of the Services ESA section 7 Biological Opinions(USFWS 2000a)(NMFS 2000), or that would alter the Services' conclusions that the ESA section 10 issuance criteria have been met (USFWS 2000b)(NMFS 2000).

The Services note and appreciate the acknowledgment of positive changes to the final documents. Our responses will be confined, however, to a targeted discussion of: (1) the commenters assertions that in some instances negative changes were incorporated into the FHCP and FEIS which corresponded to their comments on the draft documents; and (2) instances where an apparent misunderstanding influenced a specific comment. With regard to comments that stated that in some instances changes were not made corresponding to comments on the draft documents, these are not addressed because the Services believe that the original comments were adequately addressed in FEIS Appendix D, *The Services' Responses to Public Comments Pertaining to the Draft Environmental Impact Statement*.

Response to Comments

TMDL Should be Enforceable as a Resource Objective(s): Several comments stated that resources objectives should be developed that contain the TMDL goals, thereby resulting in enforcement authority for the TMDL. The Services attempted to negotiate the TMDL as a specific resource objective(s) enforceable through the IA. However, difficulties in enforcing

Clean Water Act provisions under the authority of the ESA precluded this linkage. The Services will work with Simpson Timber Company, the Washington Department of Ecology and Department of Natural Resources to assure progress toward attainment of the TMDL goals.

Comparison of HCP to Proposed Forest Practices Rules: Several comments questioned the adequacy of the HCP as compared to proposed Forest Practices Rules (Forests and Fish Report, or FFR, Alternative). The FFR was analysed in the HCP as an alternative to the HCP. A strict comparison of the prescriptions does indicate differences between these two alternatives. However, the HCP provides prescriptions specific to this landscape, as opposed to the more general, statewide prescriptions in the FFR. The Services, therefore, find that the differences in prescriptions do not translate into decreased protections for covered species and their habitats. As explained in the HCP, stream habitat, riparian and other functions are prescribed based on research and data specific to Simpson Timber Company plan area. In total, these prescriptions combined with programmatic and fiscal commitments in the HCP provide the Services with assurances that habitats and species will be conserved as well or better, than under the new state rules as proposed through the FFR.

240-acre Clearcuts are not Acceptable: Assertions were made in several comments that the HCP would allow 240-acre clearcuts for the 50-year ITP term. The HCP contains no specific prescriptions about clearcut size. Moreover, the Services defer to the State Forest Practices Rules on such matters. Under current and proposed Forest Practices Rules, the standard, maximum clearcut size is 120 acres. Under certain conditions, however, clearcuts up to 240 acres may be conducted after special application and completion of a State Environmental Policy Act review. If these provisions of the State Forest Practices Rules change during the 50-year term of the ITP, Simpson Timber Company operations will be subject to the revised rules.

Conservation Planning Under Section 10 of the ESA Must Contribute to Recovery: Comments on the draft and final documents perpetuated a misunderstanding that in order for the Services to ensure recovery of a listed species, assurances must be 95 percent or greater; if this threshold is not met the ITP cannot be issued. As we stated in our responses to comments on the draft documents, no such quantitative assurance policy exists. The relationship between conservation planning under ESA section 10 and recovery is stated in the Services joint Habitat Conservation Planning Handbook. Following is an excerpt from page 3-20 of the Handbook.

Issuance criteria under section 10 of the ESA require that the HCP applicant “minimize and mitigate” the impacts of any incidental taking authorized by a section 10 permit, and that issuance of the permit not “appreciably reduce the likelihood of the survival and recovery of the species in the wild” (see Chapter 7). Section 7(a)(2) of the ESA requires that issuance of a permit does not “jeopardize the continued existence of” any federally listed species, or result in “destruction or

adverse modification” of designated critical habitat. The implementing regulations of section 7 define “jeopardize” as “to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of the species in the wild by reducing the reproduction, numbers, or distribution of that species”—this is essentially identical to the section 10 issuance criterion cited above. Section 7(a)(2) also requires use of “the best scientific and commercial data available” in fulfilling its provisions. No other specific mitigation standards for HCPs are specified under the ESA.

Issuance of a section 10 permit must not “appreciably reduce” the likelihood of the survival and recovery of the species in the wild. Note that this does not explicitly require an HCP to recover listed species, or to contribute to their recovery objectives outlined in a recovery plan. This reflects the fact that HCPs were designated by Congress to authorize incidental take, not to be mandatory recovery tools.

However, recovery is nevertheless an important consideration in any HCP effort. This is because, some HCPs may encompass all or much of a species’ range [note: none of the species proposed for coverage occur exclusively on Simpson lands] and address crucial biological issues; because of the inherent biological significance of such planning areas, a poorly designed HCP could readily trigger the “appreciably reduce” or “jeopardize” standard. Second, many HCPs, even smaller ones, can be said to contribute to recovery to the extent that individually or collectively they provide for dependable conservation actions and long-term biological protections. Thus, contribution to recovery is often an integral product of an HCP, but it is not an explicit statutory requirement.

Monitoring Cap is Unacceptable: At least one commenter stated that the expectations for applicant monitoring and oversight by the Services are not compatible with the monitoring funding cap. The Services find that the initial commitment of \$250,000 for monitoring should be adequate to conduct the initial phase of the Monitoring Program. Monitoring is a mandatory element in the HCP; funding for the plan must be provided. In the event the Services and/or Simpson Timber Company find that funding is inadequate, informal and, if needed, formal, adjustments can be made through provisions in the IA.

Deleterious Decrease in Areas Subject to Supplemental Wildlife Tree Provisions: At least one commenter was concerned that an apparent change between the draft and final documents resulted in a deleterious decrease in areas subject to supplemental wildlife tree recruitment. Assuming the commenter is referring to changes to HCP Figure 6, these changes are a result of

using more up-to-date data in the production of the final HCP.

These changes are a reflection of the condition present today and of the conditions projected over the life of the HCP. The areas shown in red in Figure 6 are not projected to achieve the desired wildlife tree condition (HCP Section 5.2.2) within the life of the HCP, hence the need for the active recruitment of wildlife trees under the Supplemental Wildlife Tree Conservation Program. Reduced red in Figure 6, therefore, indicates that the current conditions and projections for future conditions are such that the desired numbers and types of wildlife trees will be achieved naturally without active recruitment.

In addition, any harvest unit that falls within a section (640 acres) that has any red will be evaluated for wildlife tree sufficiency, so that the desired wildlife tree conditions will be achieved across the entire section (P. Peterson, Simpson Timber Company, pers. comm., 5 October 2000). This is a point that may not be clearly reflected in Figure 6.

The EIS Should Assume a 240 Acre Clearcut: One commenter indicated that “[G]iven that the HCP fails to include any measures whatsoever to limit the average sizes to 60 acres, the EIS should assume that openings will be as large as permitted under the State Forest Practice Rules, i.e., 240 acres [instead of the analytical assumption of 60-acre average clearcuts].” The 60-acre average was based on a company stated average of recent, current, and projected harvest unit size. While some clearcuts will likely be larger than 60 acres, some will also be smaller, and analyzing a worst case scenario would be unrealistic and inappropriate, and was specifically excluded as a NEPA analysis requirement on April 25, 1986 (51 FR 15618).

The EIS should evaluate a Worst Case Scenario: One commenter indicated that the EIS analysis should have assumed a worst case scenario for Simpson’s management actions. This is reflected in the following quote: “For the purpose of analyzing the proposed action’s effects, the EIS should assume that Simpson can and will employ the most intensive (and damaging) practices permitted by the HCP and IA. . . such as the use of exotic and/or genetically modified tree species. . . and the impact of land sales and land use conversions which could occur on the covered lands.” While some of these speculative actions may or may not be considered a worst case scenario, it should be reiterated that the worst case scenario analysis requirement was withdrawn as a NEPA requirement. Furthermore, instances such as those described by the commenter may, depending on their extent, result in the need to effect a minor, or possibly a major amendment of the HCP. The Services HCP Handbook indicates amendments are necessary when “[S]uch modifications might include significant boundary revisions, alterations in funding or schedule, addition of a species to the ITP that was not addressed in the original HCP, or adjustments to the HCP necessitated by unforeseen circumstances.” If it were determined that a the change were significant, and a major amendment was necessary, environmental analysis under NEPA would be required.

HCP did not Adequately Respond to Comments: One commenter stated that they believe the final HCP did not reflect an adequate response to public and agency comments. The Services note, however, that while not all requested changes were made, numerous changes were made in the final documents, primarily as a result of input received from public and agency commenters. In fact the Pacific Rivers Council stated “[W]e find that the Services response to public comment by PRC and others has resulted in a significantly strengthened proposal.” The Pacific Rivers Council goes on to note the following “Many Key Concerns Addressed by New Provisions.”

- Continuous Riparian Protection for Small Nonfish Perennial Streams
- No Harvest on Unstable Slopes
- Restriction on Experimental Thins in Riparian Conservation Reserves
- Removal of Financial Cap on Road Remediation Work
- Sediment Load Capacity Targets Revised
- Addition of TMDL Sediment Loads to HCP Aquatic Resource Objectives
- Clarified Commitment to Antidegradation Standard and Attainment of Load Allocations
- Other Improvements

The Services also note other changes between the draft and final documents, including improved conservation measures for band tailed pigeon, bald eagle, snag dependent species, elk management, and amphibian habitat. One example of improved conservation measures for amphibian habitat is the increased buffers on type 4 and 5 streams, and increased buffers on forested and non-forested wetlands.

Citations

Peterson, Phil. Biologist. Simpson Timber Company. Telephone conversation with Jon Hale (USFWS), 5 October 2000.