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July 13, 2018

Vicki Christiansen
Interim Chief of the Forest Service

Dear Chief Christiansen,

We at NAFSR continue to be involved in, and are extremely supportive of, your EADM initiative and other important efforts directed at the reform of the current lengthy, complex, and impossible decision making and regulatory processes. We believe one of the most important areas in need of updating is compliance with the Endangered Species Act. We commend Forest Service efforts to improve ESA consultation and have taken the time to review and study your recent report culminating in the 17 recommendations. Many of our members spent large parts of their careers committed to species recovery and remain vitally interested in the agency's obligations under ESA. On that note, we offer the following thoughts on the next steps.

While we do believe each of the report's 17 recommendations could eventually be useful, we are disappointed in the bureaucratic nature of the report. The recommendations are not prioritized, and it will take years for a reduced workforce to address them all. Except for recommendation 17 and possibly numbers 5, 6, and 7 we fear the end result will be minor rather than major improvement. We believe that the Forest Service does have an important and affirmative role in species protection and that "formal consultation" on major projects is not the issue. Rather, it is the "informal consultation" process on the thousands of routine, albeit important projects and activities that is frequently delayed or unacceptably altered. Therefore, we suggest the following three actions to make the most effective use of this report at this moment in time.

First, the potential benefits of moving ahead on recommendation 17 vastly exceed all others, especially allowing the Forest Service to make "may affect" and "not likely" to adversely affect determinations. Forest Service field biologists are second to none and are completely capable of doing this under the monitoring of the "Services". This obviously cannot be done without the support of the USDA, DOI, and Commerce Secretaries and we suggest that a meeting/summit be arranged to align the three Departments. We pledge our assistance in any way possible. In addition, we submit the following recommendations as additional ways the Services could help the Forest Service and other Action Agencies.

- a. Allow action agencies at least 30 days to review draft biological opinions. Currently less than two weeks is the norm and the Services internal process prohibits major changes to the BO. This often results in BO's being difficult to implement and often forces changes to the project.
- b. Request the Services define the minimal change rule in 402.14(i)(2). This would prevent the frequent practice of the Services modifying the action via "Reasonable Prudent Measures" and/or "Terms and Conditions." NAFSR recommends the minimal change rule be defined as follows: "The Services will rely on the Action Agency, or Applicants input, in the development of RPM's and/or T&C to ensure they are implementable and do not require major alterations of the proposed action of a plan or project in terms of design, location, scope, and results."
- c. As the Forest Service moves toward more programmatic consultations, they should request the Services to assist by doing programmatic BO's.
- d. Increase the length of time consultations are valid making it efficient to renew consultations for actions such as road maintenance, special use permits, and grazing permits that have not changed but must be reauthorized. The Forest Service simply no longer has the capacity to spend analysis time on repetitive routine activities.

Second, focus on recommendations 5, 6, and 7. We support developing and using biological assessment templates and effective programmatic consultations to save significant time.

Third, we also support creating and monitoring reasonable consultation goals and deadlines for various situations and projects.

Finally, two additional thoughts: Based on feedback and discussions with many FS employees we conclude the FS needs to be more forceful in policy development, training, and clarity on the proper context of "Significance" as it relates to BA's and ESA vs. NEPA. There remains much confusion around the definition of the term "Significance" and how it applies to these two statutes and their regulations.

Another area in need of revision is sensitive species, which should be specifically explained in the FS manual direction in 2670. The current manual direction is badly out of date and needs immediate updating, revision and simplification.

We appreciate the opportunity to offer our assistance and perspective.

Sincerely,

James L. Caswell

James L. Caswell, Chair
National Association of Forest Service Retirees

Larry R. Payne

Larry R. Payne, Vice-Chairman
National Association of Forest Service Retirees

cc: Chris French
Chris Iverson