



JACKSON COUNTY

Oregon

Board of Commissioners

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August 17, 2012

Ken Salazar, Secretary of the Interior
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Washington, DC 20240

Paul Henson, State Supervisor
U.S. Fish and Wildlife Service
2600 S.E. 98th Avenue, Suite 100
Portland, OR 97266

Dan Ashe, Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240

Jim Thrailkill, Field Supervisor
U.S. Fish and Wildlife Service
Roseburg Field Office
2900 N.W. Stewart Parkway
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Robyn Thorson, Regional Director
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, OR 97232

Re: File Name: Northern Spotted Owl pCH County Letters 2012, TS Number: 121-1006

On February 9, 2012, on behalf of the Board of Commissioners for Jackson County, Oregon, I mailed a letter to you informing you that Jackson County, Oregon had adopted an official policy for coordinating with Federal Agencies and asserting Jackson County, Oregon's right to coordinate with the U.S. Fish and Wildlife Service ("USFWS"). Additionally, with this letter, I enclosed a proposed Intergovernmental Agreement to memorialize the coordination process between Jackson County, Oregon and USFWS. On June 21, 2012, I received a letter from Robyn Thorson, Regional Director for USFWS declining to enter into the proposed Intergovernmental Agreement. However, Ms. Thorson asserted that the USFWS remained committed to "meaningful coordination with Jackson County . . . when it comes to our activities."

It has since come to my attention that USFWS is considering a revision to the critical habitat for the Northern Spotted Owl. On July 23, 2012, Jackson County received a letter dated July 20, 2012, signed by Paul Henson, informing the County that the comment period on a proposed revision to the critical habitat of the Northern Spotted Owl was being extended. This letter states that USFWS is interested in receiving comments from all Counties within the range of the Northern Spotted Owl as to the proposed rule, and that while the general public comment period was closed, interested counties had until August 20, 2012 to submit comments. Jackson County, Oregon would be one of these counties, as according to the USFWS Northern Spotted Owl website, the entirety of Jackson County, Oregon is considered critical habitat for the Northern Spotted Owl.

The USFWS Northern Spotted Owl website indicates that general public notice regarding the proposed rule was published in the Federal Register on March 8, 2012. Additionally, a general notice was issued by USFWS on May 29, 2012 regarding the public comment period on the proposed rules and the proposed public meeting and hearing dates. However, prior to the undated letter received on July 23, 2012, by Jackson County, my County had not received any direct notice from USFWS that any proposed revisions to the Northern Spotted Owl critical habitat was being considered. In addition, by the time the letter was received by my County, the period for commenting set in the letter had substantially run its course. Jackson County did not have the opportunity to prepare reasoned and supported comments to the proposed revision to the critical habitat, participate in the public meetings and hearings, or in any other way meaningfully coordinate with USFWS on this proposed action.

This state of affairs is in direct conflict to Jackson County's prior assertion of its rights to coordinate with USFWS and Ms. Thornton's statement that USFWS remained committed to meaningful coordination with Jackson County, despite USFWS declining to enter into the proposed Intergovernmental Agreement. In coordination between federal agencies and local governments, a local government is entitled to receive notices of proposed actions prior to the general public. Jackson County neither received such a notice, nor, for that matter, any direct notice that an action was being considered. The only direct notice the County received that any issue was being considered was a notice of extending the period for comment after that extended period had substantially already run its course.

Additionally, coordination between a federal agency and a local government requires the policies of that local government be considered when taking an action.

This requirement is made exceptionally clear by the Presidential Memorandum, dated February 28, 2012. This memorandum set forth that the proposed revised critical habitat for the Northern Spotted Owl must consider the economic impacts of the proposed critical habitat, should seek to exclude state and private lands from inclusion in the designated critical habitat, and permit active management of the forest, including logging. A review of the Draft Economic Analysis of Critical Habitat Designation appears to conclude that there will not be a negative impact on the economic and logging because logging and other active management uses of the forests have already been devastated by prior actions to protect the Northern Spotted Owl. Such a conclusion hardly supports the stated goal of USFWS to coordinate with local governments, or the direct guidance from the President of the United States as to the factors that must be considered as part of this action.

Coordination cannot occur between USFWS and Jackson County if USFWS is considering taking action that directly affects Jackson County, and fails to properly inform Jackson County of that action. Furthermore, coordination cannot occur if the USFWS dismisses the economic concerns of local governments and the direct guidance from the President on this issue. Therefore, I once again propose that USFWS and Jackson County, Oregon enter into an Intergovernmental Agreement to memorialize coordination between the two parties. Although USFWS asserts that it remains committed to meaningful coordination, at the first chance for said

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meaningful coordination, coordination between the two parties failed due to the complete lack of communication by USFWS. An Intergovernmental Agreement will provide a meaningful framework for both USFWS and Jackson County to ensure that USFWS stated goal of meaningful coordination actually occurs.

Sincerely,

A handwritten signature in black ink, appearing to read "D Skundrick". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

Don Skundrick, Chair
Board of Commissioners

cc: Senator Ron Wyden
Senator Jeffery A. Merkley
Representative Greg P. Walden
Dennis C. W. Smith, Commissioner
John Rachor, Commissioner
County Administrator
✓County Counsel

