

Committee on Resources

Subcommittee on Forests & Forest Health

Testimony of Gerry Jackson

STATEMENT OF GERRY JACKSON, ASSISTANT DIRECTOR FOR ECOLOGICAL SERVICES, UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF INTERIOR, BEFORE THE SUBCOMMITTEE ON FORESTS AND FOREST HEALTH, HOUSE COMMITTEE ON RESOURCES, ON THE IMPACT AND STATUS OF THE NORTHERN SPOTTED OWL ON NATIONAL FORESTS

March 19, 1998

Thank you for the opportunity to discuss the impact and status of northern spotted owls on National Forests. I am accompanied by Mr. David Wesley, Assistant Regional Director of Ecological Services in our Pacific Regional Office in Portland, Oregon.

The Fish and Wildlife Service appreciates the opportunity to provide testimony before this committee on the northern spotted owl and the President's Forest Plan. The Forest Plan is a comprehensive, multi-faceted approach to managing forest ecosystems within the Pacific Northwest and Northern California. The Service is working cooperatively with Federal and nonfederal entities to achieve the President's goals for ecological and economic health of our forest resources. Service actions to meet these responsibilities include 1) supporting Federal landmanagement agencies in implementing the Forest Plan through consultation, planning and technical assistance, 2) cooperating with non-federal landowners through habitat conservation planning; 3) developing a rule under section 4(d) of the Endangered Species Act (ESA) to provide relief for take of northern spotted owls for private landowners with small holdings; and 4) supporting local communities through the Jobs-in-the-Woods program. These responsibilities are among the highest resource priorities for the Service's Pacific Region.

The Service is an advocate of the Northwest Forest Plan as the key to resolving conflicts between issues, such as spotted owl conservation and timber production, in a way that brings more certainty to management of our Nation's forest resources. The Service has been involved with forest issues since the late 1980s when we were petitioned to list the owl as a threatened species. At the Committee's request we have provided copies of the major documents used by the Service in its listing decision including those that summarize owl status at that time along with an index of other supporting material which is archived.

The major points that supported the Service's listing decision focused on downward spotted owl population and habitat trends, and the lack of regulatory mechanisms to manage this species. Delisting of the spotted owl would require that we address the reasons for listing, i.e. that the spotted owl population is stable or increasing and that we have confidence in the regulatory mechanisms in place to protect the owl's habitat. These issues would have to be satisfactorily resolved across the range of the northern spotted owl, including both Federal and non-Federal lands,

Since the listing of the owl in 1990, the Service has been an active participant in interagency and intergovernmental planning efforts both to develop and implement a strategy for protecting and managing the spotted owl that would respond to the reasons for listing the owl as well as continue to support the timber programs of the Forest Service, Bureau of Land Management, states, and private landowners. These efforts included designation of critical habitat for the spotted owl and preparing a draft owl recovery plan. These materials have also been provided at your request. As you are aware, litigation involving all of the key Federal agencies continued through the early 1990s. However, the focus of that litigation began to expand beyond the spotted owl toward forest ecosystem and biodiversity issues. The result by 1993 was a near shutdown of Federal timber sale operations due to court orders related to these larger issues.

The Service recognized, along with the other Federal agencies, that the northern spotted owl was not the only forest resource issue requiring consideration if we were going to resolve these conflicts. For example, the Service-listed the marbled murrelet in 1992. As a result, the Service was a strong supporter of the President's 1993 effort to address existing and potential issues through development and implementation of the Forest Plan, a plan that would form the basis for owl recovery, contribute to recovery for other listed forest species, reduce future listings of species dependent on Federal forests, and contribute to overall forest ecological and economic health in the Pacific Northwest. The Service fully believes that this type of ecosystem approach is the most efficient and viable approach to resolving complex and large-scale issues, and one that in the long run will be considerably less costly than an approach that deals with only one issue or species at a time.

In response to this ecosystem approach to forest management, the Service has played a major role since 1994 in supporting the Federal land management agencies in implementation of the Forest Plan. The Service and these agencies have helped reduce resource conflicts relative to the ESA by bringing fish and wildlife resource issues to the forefront of the planning processes, thus greatly facilitating consultation and resource planning.

Our highest priority has been to expeditiously complete consultations under section 7 of the ESA on timber sales, including salvage, and Forest Plan activities. In March 1995, the Service, the Forest Service, the Bureau of Land Management and the National Marine Fisheries Service signed a Memorandum of agreement outlining consultation timeframes and formally "streamlining" processes for forest health

projects and timber salvage.

As a result, consultation timeframes were greatly reduced in the Northwest, from over 135 days per consultation as provided by statute to an average of no more than 60 days for formal consultations and 30 days for informal consultations. More recently, we have been averaging 10 days for informal consultations and 32 days for formal consultations. We are also striving to take a programmatic approach to consultations aiming to reduce staff time and workload and achieving greater certainty in project implementation. Supporting documents relative to the streamlining process have been provided for your consideration.

We have also made a major effort to lessen impacts on private landowners. The Critical Habitat designation for spotted owls represented the first time the Service had utilized its authority to exclude areas from critical habitat for economic reasons. As a result, no Critical Habitat for the

owl was designated on private lands. Habitat Conservation Plans (HCPs), and our "No Surprises" and "Safe Harbor" initiatives can provide major benefits to landowners. Indeed, the two initiatives were in part based on experience with the spotted owl.

So far, our efforts in the non-federal arena have also been successful, resulting in more certainty for many non-federal landowners. We have completed or are working on 20 HCPs in the Forest Plan area. These plans will consider management prescriptions covering over 4,400,000 acres of forest habitats affecting the conservation of species using a multispecies landscape approach in Washington, Oregon and northern California within the range of the owl. Several additional plans dealing with owls and other species are in a preliminary development stage. A table summarizing HCP project activities was included in the documents delivered to this committee.

These plans include large and small public and private landowners, including the Washington Department of Natural Resources, benefitting the spotted owl, marbled murrelet, grizzly bear, gray wolf and many other species on 1,660,000 acres; Plum Creek Timber Company, benefitting the spotted owl, marbled murrelet, grizzly bear, gray wolf and other species on 170,000 acres in Washington State; the Murray Pacific Company, benefitting the bald eagle, grizzly bear, spotted owl, marbled murrelet, gray wolf and other species on 55,000 acres in Washington State; the Oregon Department of Forestry, benefitting the spotted owl, marbled murrelet and other species on 615,000 acres in Oregon; Coast Range Conifers benefitting the spotted owl and marbled murrelet on 110 acres in Oregon; two agreements with Weyerhaeuser benefitting the owl, marbled murrelet and other species on over 600,000 acres in Oregon; Louisiana-Pacific, benefitting the owl and various species of fish on 300,000 acres in California; and the Regli Estate, benefitting the spotted owl, the marbled murrelet and other species on 500 acres in California.

Landowners are generally pleased with their HCPs. The President of Plum Creek stated "This plan will serve as an example of how to protect the diversity and health of ecosystems while giving businesses that rely on natural resources the predictability they need to service the important interests of their employees, communities, customers and shareholders." Toby Murray, Vice President of Murray Pacific, noted "Approval of this Habitat Conservation Plan is proof that cooperative approaches between government and business can achieve substantial results for the environment and the landowner. We are all proud and excited with the new Habitat Conservation Plan we are signing because it provides excellent protection for fish and wildlife and gives us the certainty we need to operate our family business."

The intent of these HCPs is to strike a balance between impacts resulting from timber harvest and related activities, and the conservation of the owl and other species on non-Federal land. All of these HCPs are, to some extent, related to the Northwest Forest Plan, since most plan areas are adjacent to Federal land and were developed from an ecosystem perspective, including consideration of the conservation measures being implemented on nearby Federal lands. One intent of the Plan was to ensure that Federal lands contributed their full share for owl conservation, thereby easing the need for restrictions on non-Federal lands.

In order to encourage HCP development and manage the associated workload, the Fish and Wildlife Service and National Marine Fisheries Service have streamlined the HCP development and application process. This includes a number of improvements over the prior process. First, we have established a category of "low-effect HCPs" applying to activities that are minor in scope and impact. These HCPs receive faster handling during the permit processing phase. Second, we have provided clear guidance that has been subjected to public review to Service personnel and applicants about section 10 program standards and procedures. Third, we have established numerous mechanisms to accelerate the permit processing phase for all HCPs. Finally, specific time periods have been established for processing an incidental take permit application once an HCP is submitted to the Service. These are:

HCP With an Environmental Impact Statement	less than 10 months
HCP With an Environmental Assessment	3 to 5 months; and
Low-effect HCP	less than 3 months.

The joint Fish and Wildlife Service-National Marine Fisheries Service "No Surprises" final rule (February 23, 1998, 63 FR 8859) establishes a simple principle. The Federal Government will not require, without the consent of the permittee, the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, including quantity and timing of water delivery, or other natural resources beyond the level otherwise mutually agreed upon for the species covered by the conservation plan. In other words, "a deal is a deal".

Our Safe Harbor agreements ensure landowners that they will not be penalized if they take voluntary

additional conservation measures for listed species beyond those legally required, such as allowing timber stands to become "old growth" rather than cut them down before they could become owl habitat. Both of these tools are designed to provide private landowners with realworld incentives to work collaboratively with the Service in restoring declining and listed species.

The Service is requesting additional funding to accelerate implementation of these successful ESA reforms. We are requesting a \$9.9 million increase for the consultation program, where we intend to further streamline the section 7 consultation program with other Federal agencies and to provide greater support to HCP development. We expect to be working on the development of an additional 100- 175 new Habitat Conservation Plans during FY 1999. These new and existing HCPs will cover hundreds of listed, proposed and candidate species and encompass over 9.2 million acres,

We have requested an additional \$5 million in fiscal year 1999 for a new pilot Safe Harbor landowner incentive grant program. Over one-half of all listed species have 80 percent of their habitat on private land. The new grant program will provide financial assistance to about 150 landowners with small landholdings that provide critical habitat for protecting species.

We are also active in the "Jobs in the Woods" program, in which we seek to hire displaced timber workers within the range of the spotted owl to carry out habitat restoration projects in.

voluntary cooperation with private landowners. We have to date received over \$9.2 million for this program, which has employed 820 displaced workers in 36 counties. Accomplishments include over 140 miles of roads and trails rehabilitated; over 180 miles of steambank or riparian areas fenced; and over 2,200 acres of wetland and riparian habitat restored or enhanced. The President's budget request for fiscal year 1999 is \$2.3 million, which would permit us to employ 210 displaced workers in these projects for the fiscal year.

As a result of our direct involvement in development and- implementation of the Forest Plan, the Service strongly believes that the Forest Plan provides a sound framework for recovery of the northern spotted owl and a framework that focuses on Federal lands as providing most of the needs of the spotted owl population over its range. The President relied on this expectation when he directed the Service to develop a special 4(d) rule under the ESA to address regulatory restrictions on non-federal lands where found to be unnecessary or less important to spotted owl conservation. The Service intends to issue a final 4(d) rule for the spotted owl early this summer.

The Service does not intend to issue a final recovery plan for the owl, although we still utilize and regard as solid the biological analysis in the draft plan, because the Service believes that the Forest Plan, when added to the on-going HCP effort for non-Federal lands, outlines the necessary management tools for recovery, and that the information needed to address delisting will be provided through an interagency monitoring program that focuses on population and habitat trends. These conclusions are consistent with the biological goals for owls identified in the draft recovery plan and in previous reviews and assessments of the spotted owl, and in the monitoring plan developed for the species.

While we believe that the ultimate impact of implementation of the Forest Plan, as stated in its Record of Decision, will contribute significantly to recovery of the owl, we must remember that the owl is a long-lived species that dwells in a forest environment that changes very slowly over time. Accordingly, we are highly dependent on the continuation of a focused research and monitoring program carried out by the Federal, State and private research entities that will provide information to assess trends in the spotted owl population. Our actions and those of the other resource agencies will be guided by the results of this research and monitoring. The most recent range-wide analysis of demographic data on spotted owl population trends pre-dates the completion of the Forest Plan and indicated a continuing downward trend. These data were used in development of the Forest Plan in 1994 and in the Service's subsequent efforts to develop a special 4(d) rule. Because of the nature of demographic information, these results are only reported on a 3-5 year interval. The first results from spotted owl demographic or population trend studies conducted since implementation of the Forest Plan are due to be reported to the Service late this year.

Our expectations are that the population will continue to decline as habitat is lost. These losses will occur as habitat outside the "Late Successional Reserve" areas are harvested to support the local timber demand. However, without the protections under the President's Forest Plan, the reduction of suitable habitat would have continued until all suitable habitat available for timber harvest, and thus all timber-related 'obs dependent upon old-growth logging, would have been

lost by the end of the century. Attachment I to my statement shows Forest Service data on owl population trends prior to listing. Over the next 50 years, the spotted owl habitat removed under the implementation of the Northwest Forest Plan is expected to be replaced by habitat regenerating within the protected reserves. As habitat inside the reserves improves, the amount of habitat rangewide, and therefore owl populations, will stabilize and eventually increase.

Because the Forest Plan takes a multispecies and multi-disciplinary habitat-based approach to resolving forest conflicts, we cannot separate precise impacts or costs to forest management that are specifically attributed to the northern spotted owl.

Included with my statement is a chart that summarizes the costs associated with our involvement in implementation of the Forest Plan on Federal lands (Attachment 2). However, the activities supported by these funds address all the Service's trust resources and technical assistance responsibilities related to Northwest forest areas, not just spotted owl issues. Examples include Service involvement in section 7

consultation streamlining, providing technical assistance on large scale planning efforts, and providing endangered species and other trust resources assistance to Forest Service ranger districts and BLM districts'and resource areas to provide watershed and province level habitat and species contexts for streamlining timber activities planning.

The costs shown in the attached budget table for development of habitat conservation plans and the 4(d) rule are more specifically associated with spotted owls. Even in those cases, however, the Service is attempting to take a multispecies ecosystem approach that provides more certainty to landowners from effects of listing other species by using the Forest Plan as the basis for addressing their conservation. Thus, these costs are not solely attributed to the spotted owl.

The Service has not been provided specific information from local landowners or governments that summarize their impacts or costs. Because the ESA requires us to make decisions on listings and evaluations of agency actions solely on biological grounds, data on economic impacts cannot be part of the decision-making process. We accordingly have not burdened local governments, private businesses and landowners with requests for information we are precluded from using. However, we believe the results of our efforts to reduce impacts of listed species and provide certainty to landowners have had a positive impact on their activities with minimal costs.

Although the best available science was used to develop the Forest Plan, the concept of ecosystem management and our knowledge of what it means to species, forests, and society are still evolving. Thus, implementation of the Forest Plan will require a strong and long-term cooperative effort among the agencies in the Pacific Northwest to ensure we meet the President's ecological and economic goals, a commitment that the Service strongly supports.

The cornerstone of our efforts will focus on adaptive management not only for the spotted owl, but for all species and issues that constitute the ecological and economic goals of this plan. For the spotted owl, this means relying on a long-term monitoring program that can track the trends in its population in a way that is meaningful to the Forest Plan. The Federal agencies have worked to develop a monitoring program that can reduce the costs and the time it takes to achieve useful results. This program will respond to the Service's needs relative to delisting the owl by focusing on the reasons for listing, that is, by focusing on population and habitat trends relative to forest management.

For the future, the Service intends to continue its active support for and participation in implementation of the Northwest Forest Plan to ensure that our legislated mandates and the President's ecological and economic goals are met, not just for the spotted owl but for all the species and issues affected by that plan. We will continue to work closely with the Forest Service and BLM to further improve and streamline the planning and assessment processes associated with the Forest Plan. The Service will also continue to actively work with non-federal landowners to develop habitat conservation plans, and to complete its commitment to reducing regulatory restrictions for owls through implementation of the special 4(d) rule in an expeditious manner.

This completes my formal testimony. I would be happy to answer any questions you may have.

ATTACHMENT 1

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DECLINE OF NORTHERN SPOTTED OWL HABITAT ON LAND SUITABLE FOR TIMBER PRODUCTION

Pacific Northwest Region

U.S. Forest Service

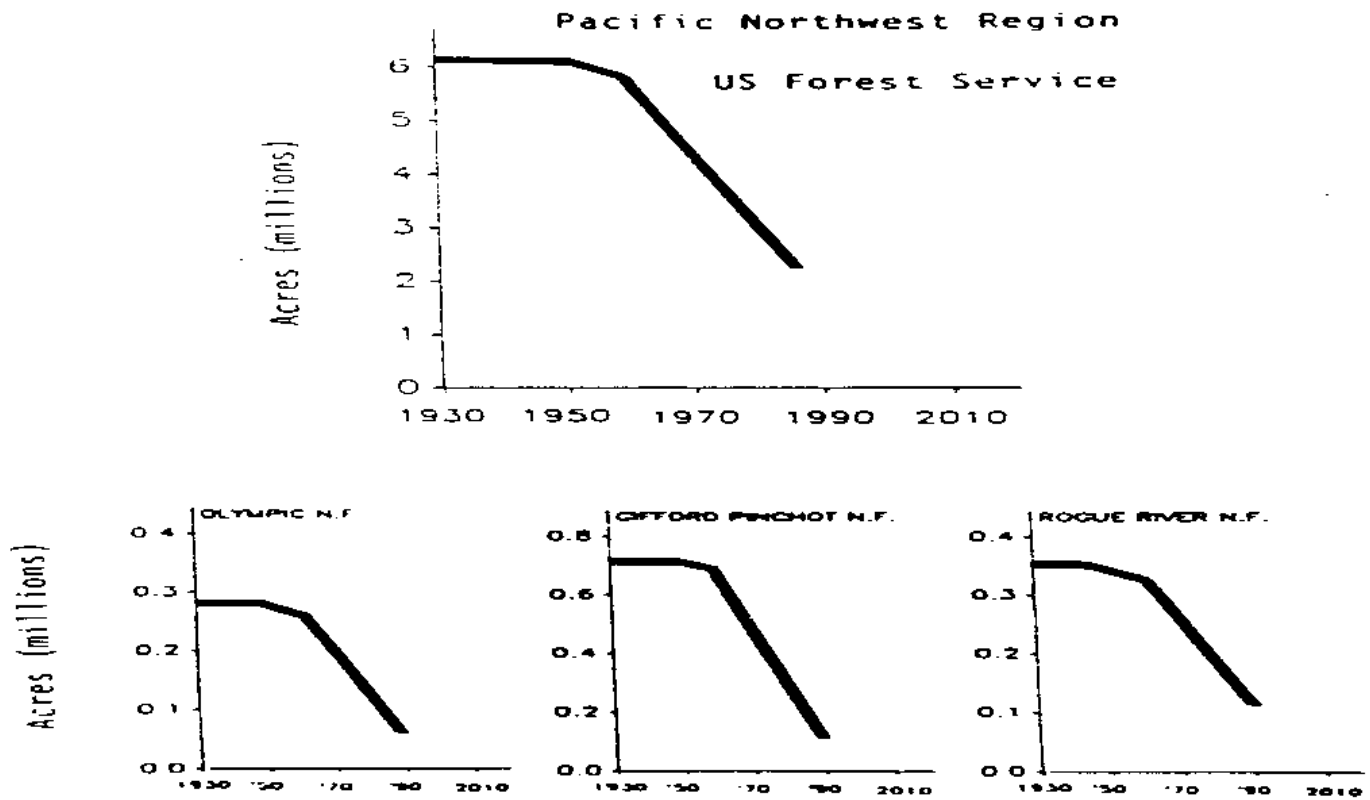


Figure 1. Decline in acreage of unprotected suitable northern spotted owl habitat on Forest lands also suitable for timber production. Based on information provided by the Forest Service (Pacific Northwest Region, Timber Management).

ATTACHMENT 2

Fish and Wildlife Service Fiscal Year Allocations for Northwest Forest Plan Activities

Resource Areas	FY 1995 Funding (\$000)	FY 1996 Funding (\$000)	FY 1997 Funding (\$000)	FY 1998 Funding (\$000)	FY 1999 President's Request Funding (\$000)
Interagency Consultation and Coordination	9,953	9,232	9,532	9,865	9,996
Non-Federal Forest Activities	2,014	2,470	3,867	4,797	4,928
- Habitat Conservation Planning					
- Endangered Species Act					
Section 4(d) Rulemaking					
Jobs-in-the-Woods	3,513	2,376	2,376	2,376	2,376
TOTALS (\$000)	15,480	14,078	15,775	17,038	17,300

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