

July 6, 2012

Division of Policy and Directives Management  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive  
MS 2042-PDM  
Arlington, VA 22203  
In re: FWS-R1-ES-2011-0112

To whom it may concern:

We appreciate the opportunity to comment on the Revised Critical Habitat for the Northern Spotted Owl proposal.

American Forests restores and protects urban and rural forests. Founded in 1875, our organization is the oldest national nonprofit conservation organization in the country. We have served as a catalyst for many of the most important milestones in the conservation movement, including the founding of the U.S. Forest Service, the national forest and national park systems and literally thousands of forest ecosystem restoration projects and public education efforts. Since 1990, American Forests has planted more than 40 million trees in forests throughout the U.S. and in 38 countries. Several of these restoration projects have been in the Pacific Northwest restoring potential Northern Spotted Owl habitat.

Additionally, American Forests implements public outreach, education, and policy programs to help build awareness and understanding about the environmental and societal benefits forests provide, with a specific focus on ensuring that:

- America's forests are healthy and forest cover is expanding;
- Americans understand the importance of healthy forests as vital to human life;
- Environmentally important and threatened forest ecosystems are restored and protected;
- Public and private forests are managed in ways that give high priority to well-functioning ecosystems and the services they provide, such as clean water, carbon sequestration, fish and wildlife habitat, and recreation;

- And threats such as climate change, invasive species, insects and disease, wildfire, and conversion of land to non-forest uses are assessed and managed to limit their impacts on healthy forests.

As a result, American Forests has a direct interest in the management of the critical habitat for the Northern Spotted Owl. We respectfully submit the following comments highlighting areas where American Forests is in support of the proposed revised habitat designation (the Proposal) and where we believe the Fish and Wildlife Service (F&WS) can improve the proposal to ensure the survival of the Northern Spotted Owl (NSO) and restoring the health of the forests on which they depend.

American Forests believes that ensuring healthy forest ecosystems may require active adaptive management where appropriate and that there are ecologically sound ways to manage forests for the joint benefit of threatened and endangered species and human communities. The Collaborative Forest Landscape Restoration Program (CFLRP) is an emerging and shining example. American Forests is interested in the long-term health and recovery of the forest and acknowledges that some short-term adverse effects to the forest on a small scale can result in long-term benefits for the forests as a whole.

American Forests also supports ecosystem management at a landscape scale - encouraging voluntary stewardship on private lands, as well as collaborative approaches across all ownership types (public and private). In some cases, management for a single species, such as the Northern Spotted Owl, may be detrimental to the entire dynamic forest ecosystem and managing for one species can harm other wildlife that require other structures or processes in the forest. By managing the forests at a landscape scale and for the entire dynamic ecosystem, multiple forest structures and processes can be restored across the landscape, benefitting the listed species as well as the other species interconnected in the ecosystem.

Additionally, we encourage active public outreach and participation because we believe it results in better management plans for forests and coordinated implementation of activities. Views on how to best manage our forests have changed since the apex of the Northern Spotted Owl debate in the 1990s. We appreciate the degree to which the F&WS

proposal recognizes and builds on the lessons learned since then and acknowledges the efforts of those who have moved beyond the hard lines of management versus non-management towards collaborative approaches to managing our natural resources.

Specifically, American Forests submits the following comments organized by the questions posed in the proposal:

**(1)(c) Whether the features essential to the conservation of the species require special management considerations or protection and what special management considerations or protection may be needed in the critical habitat areas F&WS are proposing.**

We believe that the F&WS is correct in allowing certain types of active management in various sub-regions and forest-types in order to protect and conserve such habitat for the long-term. We support a process that includes consideration of active management in critical habitat on federal lands, consistent with ecosystem management principles at a landscape scale. We agree with the F&WS conclusion that active “hands on” management may better achieve the purposes of the Endangered Species Act [ESA] than a traditional “hands off” management approach in a reserve.

Essential to this active management is the inclusion of adaptive management principles. We believe that any active management plan must include monitoring the results of the actions taken, reporting these results, learning from them, and adjusting the management techniques to achieve better preferential results. Active forest management strategies, developed through collaborative landscape-scale plans and applied through adaptive management approaches with monitoring, are essential to protect and restore the diverse forest landscapes and conditions that will provide critical habitat for the owl conservation, based on our best available science.

We also appreciate the openness of the F&WS to explore active management options with federal land management agencies, such as the U.S. Forest Service and BLM, as these agencies propose actions through the consultation process with the F&WS that “are not likely to result in the destruction or adverse modification of that critical habitat.” We

believe it is important that, based on previous designations of critical habitat, the F&WS already has experience conducting consultations with the Forest Service and BLM on the appropriateness of active management. This reflects both adaptive management and collaboration as the F&WS and the federal land management agencies are learning together about appropriate actions to conserve habitat for the long-term, particularly given the high level of scientific uncertainty about future management parameters due to climate change. This adaptive management and learning process requires well designed and consistently applied monitoring processes to ensure that the practices allowed through active management are achieving the desired outcomes and not having adverse impacts.

We support the rationale and recommendations of the F&WS that management of critical habitat for NSO should follow the basic management recommendations in the 2011 Revised Recovery Plan for the NSO:

1. Conserve the older growth, high quality and occupied forest habitat as necessary to meet the recovery goals.
2. Implement science-based, active vegetation management to restore forest health, especially in drier forests in the eastern and southern portions of the owl's range.
3. Encourage landscape-level planning and vegetation management that allow historical ecological processes, such as characteristic fire regimes and natural forest succession to occur in these landscapes throughout the range of the NSO. This approach has the best chance of establishing forests that are resilient to future changes that may arise due to climate change.

A fundamental goal of critical habitat management is not only to conserve the listed species, but also to conserve the ecosystem upon which that species depends. Thus, a key objective of critical habitat management should be to understand, describe, and conserve the ecological processes that occur within the landscape inhabited by the species. This "ecosystem approach" to management will ultimately have the highest likelihood of conserving the listed species in the long term.

We agree with the F&WS conclusion that the designation and management of critical habitat for the NSO must be compatible with broader landscape management goals, if it is to conserve the spotted owl as required by the Endangered Species Act . It is both appropriate and important to emphasize that NSO critical habitat should not be a “hands off” reserve in the traditional sense. Rather, it should be a “hands on” ecosystem-management landscape that should include a mix of actions to meet a variety of forest conservation goals that support long-term spotted owl conservation. We also agree with the F&WS that narrow and highly-prescriptive management requirements for NSO critical habitat would be inconsistent with the stated purposes of the ESA, the Revised Recovery Plan, and the goals of the Northwest Forest Plan, if they discouraged land managers from implementing scientifically justified measures for conserving forest ecosystem functions and health.

**(7) Whether the benefits of excluding the private and state lands with active conservation agreements and Congressionally reserved natural areas that are proposed for exclusion outweigh the benefits of including them in critical habitat.**

American Forests believes that private and state lands with active conservation agreements should be excluded from critical habitat designation. Section 4(b)(2) of the Act states that the Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines that the failure to designate such area as critical habitat will result in the extinction of the species. Areas can be excluded from designation based on economic impacts, impacts to national security, or any other relevant impacts. The benefits from excluding these lands from designation outweigh the benefits from including them.

The purpose behind Habitat Conservation Plans, Safe Harbor Agreements and other formal conservation agreements is to ensure active participation by private landowners and state land management agencies in the conservation of imperiled species. These cooperative initiatives are critical because they encourage stewardship and enhance habitat while reducing landowner uncertainty about the activities that are permitted and the risks of

future regulatory action. In many cases, these agreements are forged prior to a species being listed as endangered or threatened. Encouraging early conservation efforts through a collaborative all-lands approach is essential to the protection and recovery of species. Conservation efforts are generally more effective and less expensive when implemented earlier rather than later. And by participating in early and collaborative conservation efforts, private landowners and other regulated entities can obtain greater certainty about how they must comply with the ESA if the affected species is listed.

American Forests is committed to advancing formal conservation agreements across the landscape. Clear incentives are needed for increased participation in such agreements by all landowners. The purpose of designating critical habitat is to identify the geographic areas that contain the physical or biological features essential to the conservation of the species. The effect of the designation of critical habitat for a listed species is to require that Federal agencies additionally ensure that their actions are not likely to result in the destruction or adverse modification of that critical habitat. Private and state landowners that have taken action and invested additional resources in conservation agreements have already demonstrated their commitment to species protection. . Designating this land as critical habitat does not contribute meaningfully to the conservation of the species and, therefore, we believe this land warrants exclusion from such designation.

**(8)(d) Whether the benefits of excluding any other particular area from critical habitat outweigh the benefits of including that area in critical habitat. For private lands in particular, information regarding the potential benefits of including private lands versus the benefits of excluding such lands from critical habitat.**

In order to achieve success in restoring the Northern Spotted Owl's habitat and ensuring the long-term survival of the species, an "all-lands" approach to conservation must be implemented. Ecosystem functions know no political or ownership boundaries and management activities to achieve restoration and rehabilitation of those ecosystems must also cross all boundaries. As noted above, we support the F&WS proposal to exclude from designation private forestlands that already have collaborative plans or agreements related

to the protection and conservation of the NSO, such as Habitat Conservation Plans and Safe Harbor Agreements.

American Forests believes that there are significant public benefits to species conservation strategies that encourage collaborative, incentive-based approaches among public and private landowners. In order to be effective, landscape-scale approaches need to engage and obtain appropriate action from all landowners within that landscape. A strict regulatory approach typically limits the actions and imposes unnecessary costs on landowners, generally through revenues foregone by their inability to take certain actions with regard to their land. Collaborative agreements seek to protect and conserve essential features of critical habitat for the NSO while recognizing types of active management that are compatible with or may enhance critical habitat. These approaches engage landowners and provide incentives for appropriate types of management activity. While a substantial number of non-federal landowners are already engaged in voluntary stewardship plans, increasing the ease, accessibility, and cost of implementing these plans should be a priority of the F&WS to ensure increased participation. However, even with the opportunity for increased participation, not every landowner can or will take part in these plans. In those instances, designation of critical habitat on private lands may be warranted.

Most federally listed species in the U.S. will not recover without the cooperation of non-federal landowners. Given the distribution of listed species with respect to land ownership—more than 80 percent of endangered or threatened species occur either partially or solely on private lands—the successful conservation of listed species in many parts of the U.S. will clearly depend upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-federal landowners. It is important to note that critical habitat designations do not provide additional regulatory protection for a species on non-federal lands unless the proposed activities involve federal funding or permitting. In other words, the designation of private or other non-federal lands as critical habitat has no direct regulatory impact unless there is such a federal connection. However, identifying non-federal lands that are essential to the conservation of the species may be beneficial in that it alerts state and local government agencies and private landowners to

the value of the habitat, and may help facilitate voluntary conservation partnerships that contribute to the recovery and delisting of the species.

The Northern Spotted Owl cannot recover without the efforts of non-federal landowners. Adding incentives to increase the voluntary efforts through conservation plans will be beneficial across the board. Designating critical habitat where it exists on other private lands does not provide additional regulatory protection, but the process of identifying critical habitat may incentivize landowners to reexamine their choices. Increasing the accessibility and funding for creating conservation plans will go a long way in the recovery of the Northern Spotted Owl.

**(10) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.**

The F&WS approach to designating critical habitat depends significantly on its management philosophy for critical habitat. Because the agency's preference in this proposed rule is to support the application of ecosystem management principles at a landscape scale—which American Forests, too, strongly endorses—we encourage public participation processes that are consistent with this management approach. Key characteristics of such public participation are open and transparent information sharing; collaborative planning and implementation among the multiple and varied landowners in a forested landscape; and a commitment to monitoring and learning among the various participants to ensure resource managers are continually expanding their understanding of the effects of their actions and maintaining trust among the various participants who must rely on each other to achieve the broad goals of landscape level plans.

These characteristics of openness, transparency, collaboration, and a commitment to monitoring and learning are very important as the F&WS works with the Forest Service and BLM through consultations regarding management plans and activities for critical habitat on federal lands. We appreciate the willingness of the F&WS to allow active management on federal lands with critical owl habitat, and we encourage the agency to



share information from these collaborative actions as openly and broadly as possible with all public and private forest landowners to encourage learning from these efforts.

These characteristics are also important with respect to how the F&WS seeks to engage and work with private forest landowners with respect to designated critical habitat. In the long run, we believe efforts that build support for an “all lands” approach to ecosystem management—and in this case critical habitat conservation—through voluntary actions by private landowners are likely to be more cost-effective than efforts relying heavily on regulatory enforcement. Encouraging the Forest Service and BLM to develop collaborative processes with non-federal landowners for the purpose of conserving critical habitat is a key step that the F&WS could take. Existing tools such as Habitat Conservation Plans and Safe Harbor Agreements could provide incentives to private landowners and be used to promote voluntary conservation of critical habitat on private lands, in combination with broader landscape level plans.

American Forests is actively involved in the promotion of the broad public benefits of collaborative efforts and encouraging local and private conservation efforts. Through our efforts on the Collaborative Forest Landscape Restoration Coalition, a group of local and national organizations dedicated to the success of the program, we work with a wide variety of stakeholders to ensure the effective implementation of the Collaborative Forest Landscape Restoration Program. CFLRP is unique among government programs in that it was established to achieve a number of social, economic, and environmental objectives, specifically to create job stability, achieve a reliable wood supply, restore forest health, and reduce the cost of fire suppression in overgrown forests. All projects must include both federal and non-federal lands. At least five of the currently selected CFLRP landscapes are within the Northern Spotted Owl range. In the first two years of the program, FY 2010 and 2011, the collaborative projects restored healthier conditions on the land while generating significant cumulative outputs, including: 228 million board feet of timber; 2,100 jobs created or maintained; \$80 million in labor income; 167,000 acres of hazardous fuels reduction to protect communities; 110,000 acres of fire prone forest restoration; and 198 miles of road conditions improved to reduce sediment in streams. It is programs like the

CFLRP that can help demonstrate how to achieve multiple objectives through an all-lands approach to collaborative restoration of our public and private forests.

In conclusion, American Forests would again like to thank the F&WS for the opportunity to comment on the Revised Critical Habitat for the Northern Spotted Owl. We welcome the opportunity to continue to be a part of the solution.

Please feel free to contact Gerald Gray, Ph.D., Senior Vice President of American Forests with any questions you may have regarding these comments at (202) 737-1944 ext. 217 or [ggray@americanforests.org](mailto:ggray@americanforests.org).