

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**Notice of Intent To Prepare an Environmental Impact Statement Regarding Proposed Issuance of an Incidental Take Permit to the Montana Department of Natural Resources and Conservation on Forested State Trust Lands in the State of Montana**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of Intent to Prepare an Environmental Impact Statement, Notice of Public Scoping Meetings.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), the Fish and Wildlife Service (Service) intends to prepare an Environmental Impact Statement (EIS). The EIS will address the proposed issuance of an incidental take permit (Permit) to allow take of species on State Trust lands administered by the Montana Department of Natural Resources and Conservation (DNRC) for activities primarily related to forest management.

The proposed Permit would authorize take of federally listed threatened and endangered species in accordance with the Endangered Species Act of 1973, as amended (ESA), and other species of concern should they become listed in the future. The DNRC intends to request a Permit that includes the following species:

Listed as threatened—gray wolf (*Canis lupus*), grizzly bear (*Ursus arctos horribilis*), bald eagle (*Haliaeetus leucocephalus*), Canada lynx (*Lynx canadensis*), bull trout (*Salvelinus confluentus*). Species of concern—wolverine (*Gulo gulo*), fisher (*Martes pennanti*), northern goshawk (*Accipiter gentilis*), black-backed woodpecker (*Picoides arcticus*), pileated woodpecker (*Dryocopus pileatus*), flammulated owl (*Otus flammeolus*), westslope cutthroat trout (*Oncorhynchus clarki lewisi*).

As required by the ESA, the DNRC is preparing a Habitat Conservation Plan (HCP) as part of an application for the Permit. The HCP would address the effects to species of DNRC's forest management activities on approximately 283,280 hectares (700,000 acres) of forested state school trust lands. The Service is furnishing this notice to advise other agencies and the public of our intentions and to announce the initiation of a 60-day scoping period during which other agencies and the public are invited to provide written comments on the scope of the issues and potential alternatives to be included in the EIS.

In compliance with their responsibilities pursuant to the NEPA and its implementing regulations, 40 CFR 1500.0 *et seq.*, and the Montana Environmental Policy Act (MEPA), Mont. Code Ann. 75-1-101 through 75-1-324, and its DNRC implementing regulations, ARM 36.2.501 through 36.2.611, the DNRC and the Service jointly announce their intent to prepare an EIS for the proposed action of reviewing and approving the proposed HCP and issuing an incidental take permit. The DNRC and the Service also jointly announce their intent to hold scoping meetings, the date, time, and place of which are provided in this notice below. This notice is provided pursuant to section 10(c) of the ESA and NEPA implementing regulations, 40 CFR 1506.6.

**DATES:** Scoping will commence as of the date of publication of this Notice in the **Federal Register**. Written comments on the scope of the proposed action, the approval of a HCP, and the concomitant issuance of the Permit should be received on or before June 27, 2003. Four scoping meetings will be held, on the following dates—April 28, 29, and May 12, 13, 2003. Each meeting will run from 6:30 p.m. until 9:30 p.m. The DNRC and the Service will use an open-house format for the meetings, allowing interested members of the public to attend at any point during the meetings to gather information and/or provide comments.

**ADDRESSES:** Meeting locations are scheduled as follows—April 28, 2003, Montana Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana; April 29, 2003, Bozeman Public Library, 220 East Lamme, Bozeman, Montana; May 12, 2003, Montana Fish Wildlife and Parks Region 1 Headquarters, 490 North Meridian Road, Kalispell, Montana; and May 13, 2003, City Fire Station Number Four, 3011 Latimer Street, Missoula, Montana. Written comments regarding the proposed action and the proposed EIS should be addressed to Tim Bodurtha, Supervisor, U.S. Fish and Wildlife Service Ecological Services, 780 Creston Hatchery Road, Kalispell, Montana 59901, or Pete VanSickle, DNRC Forest Management Bureau Chief, 2705 Spurgin Road, Missoula, Montana 59804.

**FOR FURTHER INFORMATION CONTACT:** Tim Bodurtha, U.S. Fish and Wildlife Service, Ecological Services Field Office, 780 Creston Hatchery Road, Kalispell, Montana 59901, telephone (406) 758-6882, facsimile (406) 758-6877, e-mail: [tim\\_bodurtha@fws.gov](mailto:tim_bodurtha@fws.gov); Mike O'Herron, DNRC EIS Planner,

2705 Spurgin Road, Missoula, Montana 59804, telephone (406) 542-4300, facsimile (406) 542-4217, e-mail: [moherron@state.mt.us](mailto:moherron@state.mt.us); Lowell Whitney, DNRC/FWS Cooperative Project Coordinator, 2705 Spurgin Road, Missoula, Montana 59804, telephone (406) 542-4300, facsimile (406) 542-4217, e-mail: [lwhitney@state.mt.us](mailto:lwhitney@state.mt.us).

**Reasonable Accommodation:** Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact Tim Bodurtha, Mike O'Herron, or Lowell Whitney. In order to allow sufficient time to process requests, please call no later than 1 week before the hearing. Information regarding the proposed action is available in alternative formats upon request.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 9 of the ESA and its implementing regulations, "take" of threatened and endangered species is prohibited. The term "take" is defined under the ESA to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is defined by the Service to include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering.

The Service, under certain circumstances, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened or endangered species are found at 50 CFR 17.22, and 50 CFR 17.32.

### Background

The DNRC manages approximately 283,280 hectares (700,000 acres) of forested State school trust lands in Montana. These lands are currently managed under the State Forest Land Management Rules (hereafter "Rules") formally adopted on March 13, 2003. The Rules provide the guiding framework for proposing, developing and analyzing site-specific projects. The management direction of the Rules is based on the following criteria—(1) monetary return to the school trusts, (2) maintenance of biodiversity and long term health of the forest resource, and (3) effects on the biological and physical environment. Included in the Rules are management standards that promote an appropriate mix of forest stand structures and compositions to support diverse wildlife habitats on a landscape scale, as well as an approach for threatened, endangered, and sensitive species through management of single

species' (fine filter) habitat requirements.

Some of DNRC's forest management activities have the potential to impact species subject to protection under the ESA. Section 10(a)(2)(B) of the ESA contains provisions for the issuance of incidental take permits to non-Federal landowners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. An applicant for a Permit under section 10(a)(2)(B) of the ESA must prepare and submit to the Service for approval a Conservation Plan (commonly known as a HCP) containing a strategy for minimizing and mitigating, to the maximum extent practicable, the impacts of the take on listed species associated with the proposed activities. The applicant also must ensure that adequate funding for the Conservation Plan will be provided.

The DNRC initiated discussions with the Service regarding the development of a HCP and permit issuance for their forest management activities. During this process DNRC intends to employ the Service's technical assistance. The goals of DNRC's HCP are:

(1) To the maximum extent practicable, minimize and mitigate the impacts of DNRC's forest management activities on all species covered by the HCP.

(2) Provide habitat conditions that are necessary and advisable to conserve and enhance species populations, and allow for the long-term survival of species covered by the HCP, in a manner consistent with DNRC's Trust mandate. To the extent unlisted species are covered by the HCP, DNRC's goal is to address the listing factors under its control such that the listing of such species would be unnecessary, assuming the measures in the HCP were implemented by similarly situated landowners throughout a species' range.

(3) Provide DNRC with predictability and flexibility to manage its forest lands economically, consistent with its statutory mandate to generate revenue for Trust beneficiaries.

As currently envisioned, the HCP would involve a multi-year agreement covering approximately 283,280 hectares (700,000 acres) of blocked and scattered school trust lands across the State of Montana. In addition, the HCP might include an additional approximate of 121,406 hectares (300,000 acres) of non-forested parcels that could involve access associated with timber management activities on forested lands. The DNRC is currently

considering an agreement term of 50 years. The Service specifically requests comment on the term of a permit.

The DNRC has indicated that the HCP will adopt a multi-species approach for several listed and non-listed terrestrial and aquatic species. The HCP would be integrated into an existing biodiversity management approach for State school trust lands. The approach would apply to all lands identified in the planning area.

The intent of employing a multi-species habitat-based approach would be to address biological concerns associated with listed and sensitive terrestrial and aquatic species in the planning area and minimize threats to their habitat associated with forest management activities. The intent of the approach would be to address habitat concerns for the species of interest through incorporation of overlapping mitigation strategies that may collectively provide greater conservation benefits and management flexibility. Species initially considered for inclusion in the HCP include listed species—(1) grizzly bear (*Ursus arctos horribilis*); (2) gray wolf (*Canis lupus*); (3) bald eagle (*Haliaeetus leucocephalus*); (4) Canada lynx (*Lynx canadensis*); (5) bull trout (*Salvelinus confluentus*); and unlisted species—(6) wolverine (*Gulo gulo*); (7) fisher (*Martes pennanti*); (8) northern goshawk (*Accipiter gentilis*); (9) black-backed woodpecker (*Picoides arcticus*); (10) pileated woodpecker (*Dryocopus pileatus*); (11) flammulated owl (*Otus flammeolus*); and (12) westslope cutthroat trout (*Oncorhynchus clarki lewisi*). Species may be added to or removed from the initial list of covered species as a result of the analysis. The Service specifically requests comment on the multi-species habitat-based approach to plan development, and the possibility of inclusion of these and other species in the plan and permit.

A key assumption for species protection in the HCP is that actions taken to address the biological needs of listed wide-ranging terrestrial and aquatic species would be beneficial to other non-listed species dependent on associated habitats. The conservation needs of all species to be included in the HCP would be fully and independently identified and analyzed, and any additional actions necessary for their conservation would be included in the HCP. The Service will evaluate the conservation needs of the identified listed and non-listed species throughout their ranges to ensure that conservation measures agreed to in this planning process are adequate to contribute meaningfully to their protection overall.

As a component of this planning process, the Service seeks to identify habitat conditions and land management actions on lands adjacent to those owned by the State of Montana that are administered by DNRC. In many cases, nearby or adjacent lands may be managed by the Department of Agriculture Forest Service, and Department of Interior Bureau of Land Management. In such cases, the Service will work with the Forest Service and Bureau of Land Management under existing authorities to develop and implement management actions that are complementary to those developed for lands administered by DNRC. This approach to habitat conservation planning will help ensure that adequate conservation of habitat for target species is achieved in the planning area.

Management activities undertaken by DNRC that might impact species covered under the HCP include activities associated with forest management such as, but not limited, to timber harvest, salvage harvest, thinning, control and disposal of slash, prescribed burning, site preparation, reforestation, weed control, road construction, road maintenance, forest inventory, monitoring, grazing of classified forest lands, gravel quarrying for the purposes of logging and road construction, pesticide/herbicide application, fertilization, forest fire suppression, electronic facility sites, and other activities common to commercial forest management.

For the proposed HCP, the DNRC would develop specific conservation measures to be implemented under Rules following the Montana Administrative Procedure Act and Montana Environmental Policy Act as appropriate. Measures would likely be developed under the following general categories:

1. *Biodiversity and Silviculture.* Alteration of forest vegetation is recognized as having the potential to impact terrestrial and aquatic species in various ways. Conservation measures would be developed to maintain biological diversity and species conservation, while maintaining the ability to generate reasonable and legitimate returns for school trust beneficiaries. To accomplish this the following considerations would be among those incorporated into developing conservation strategies for species included in the HCP—stand structures, compositions, stand age diversity, salvage, snags, downed wood, patch conditions, fragmentation, thinning, cover needs, and natural disturbance processes.

2. *Road Management.* Roads are recognized as having the potential to impact some terrestrial and aquatic species in various ways. Conservation measures would be developed considering (but not limited to) the following factors—human disturbance associated with road access, seasonal security, road construction requirements, road maintenance, road amounts, road locations, sedimentation/erosion potential, legacy management, and fish passage.

3. *Watershed/Riparian Area Management.* Alteration of forest vegetation associated with watershed function and riparian habitat is recognized as having the potential to impact some terrestrial and aquatic species in various ways. Conservation measures would be developed to regulation activities that could potentially impact watersheds and riparian areas. Such measures would include consideration of the following—water quality, stream shade, structure, woody debris recruitment, and riparian vegetation management.

4. *Grazing on Classified Forest Lands.* Livestock grazing in forested landscapes is recognized as having the potential to impact some terrestrial and aquatic species in various ways. Conservation measures would be developed to address impacts associated with riparian and upland rangelands on classified forest lands resulting from grazing. Such measures would include consideration of the following—condition of riparian vegetation, range condition, stream bank disturbance, season of use, browse utilization, plant species composition, and erosion.

5. *Weed Management.* Herbaceous weed species are recognized as having the potential to impact some terrestrial species in various ways. Conservation measures would be developed to address impacts associated with weed spread and control. Such measures would include consideration of the following—integrated weed management, education, biological controls, herbicide application, re-vegetation, minimization of disturbance, and prevention strategies.

6. *Land Use Planning.* The DNRC administers property in the planning area that may ultimately have long-term uses other than forestry. The DNRC also may buy, sell, or trade land in the planning area. Land use planning measures would be developed to mitigate the impacts of future development or adjustment of land ownership.

7. *Administration and Implementation.* The DNRC would initiate a program to track significant

elements of the HCP and develop a program to inform and educate contractors and employees on standards and practices to be implemented.

As currently envisioned, the HCP would incorporate active adaptive management features, including terrestrial and watershed analysis. Research and monitoring would help determine the effectiveness of the HCP, validate models used to develop the HCP, and provide the basic information used to implement “mid-course corrections” if necessary.

The Service will conduct an environmental review of the proposed HCP and prepare an EIS. The environmental review will analyze the proposal as well as a full range of reasonable alternatives and the associated impacts of each. The Service and the DNRC are currently in the process of developing alternatives for analysis. The scoping process will be used to identify reasonable alternatives in addition to the No Action alternative.

The environmental review of this project will be conducted in accordance with the requirements of the NEPA (42 U.S.C. 4321 *et seq.*), Council of Environmental Quality regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of the Service for compliance with those regulations. It is estimated that the draft EIS will be available for public review during the second quarter of calendar year 2004.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified. Comments or questions concerning this proposed action and the environmental review should be directed to the Service (*see ADDRESSES*).

Dated: April 4, 2003.

**Ralph O. Morgenweck,**

*Regional Director, Denver, Colorado.*

[FR Doc. 03–10333 Filed 4–25–03; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CO–930–1430–ET; COC–17286]

#### Public Land Order No. 7562; Revocation of Public Land Order No. 5386; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes a Public Land Order in its entirety as it affects

approximately 40,760 acres of public land withdrawn to protect scenic and primitive values. The land is located within the boundary of the Powderhorn Wilderness Area and the withdrawal is no longer needed.

**EFFECTIVE DATE:** April 28, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215–7076, 303–239–3706.

**SUPPLEMENTARY INFORMATION:** The land is located within the Powderhorn Wilderness Area and will remain closed to surface entry, mining, and mineral leasing.

#### Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 5386 which withdrew approximately 40,760 acres of public land to protect scenic and primitive values is hereby revoked in its entirety.

Dated: April 8, 2003.

**Rebecca W. Watson,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. 03–10317 Filed 4–25–03; 8:45 am]

**BILLING CODE 4310–JB–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WO–350–1430–ET; UTU–79769]

#### Public Land Order No. 7563; Transfer of Jurisdiction, Development of Air Force Morale, Welfare, and Recreation Facility; Utah

**AGENCY:** Bureau of Land Management.

**ACTION:** Public Land Order.

**SUMMARY:** This order transfers administrative jurisdiction of 26.61 acres of public land near Park City, Utah from the Secretary of the Interior, Bureau of Land Management to the Secretary of the Air Force for development as a morale, welfare, and recreation facility. This transfer of jurisdiction is authorized by section 2862 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107).

**EFFECTIVE DATE:** April 28, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Mike Nelson, Salt Lake Field Office, 2370 South 2300 West, Salt Lake City, Utah 84119, 801–977–4355.