



National Association of Conservation Districts

February 11, 2021

Public Comments Processing
Attn: FWS-HQ-ES-2020-0102
U.S. Fish and Wildlife Service
MS:JAO/3W
5275 Leesburg Pike
Falls Church, VA 22041-3803

Re: Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation

Dear Mr. Frazer and Mr. Rauch,

The National Association of Conservation Districts (NACD) represents America's 3,000 locally-led conservation districts, working with millions of landowners and operators to help them manage and protect land and water resources on private and public lands. Established under state law, conservation districts share a single mission: to work cooperatively with federal, state and other local resource management agencies and private sector interest groups to provide technical, financial and other assistance to help landowners and operators apply conservation to the landscape.

In order to ensure the wellbeing of our nation's federally managed landscapes, federal land management agencies must be able to execute management projects within a reasonable timeframe and without additional consultation after the initial project has been analyzed and included in a land or resource management plan or otherwise received approval. NACD supports U.S. Fish and Wildlife Service (FWS)'s and the National Marine Fishers Service (NMFS)'s efforts in updating Section 7 of the Endangered Species Act (ESA) related to consultation with the U.S. Forest Service (USFS) and Bureau of Land Management (BLM).

In 2015, the 9th Circuit Court of Appeals found in *Cottonwood Environmental Law Center vs. USFS* that the USFS (and by extension, the BLM) is to consult with the FWS on land management plans on potential impacts of endangered species each time new information is discovered or projects are implemented under the already approved land management plan. This process has crippled federal land management agencies' ability to adequately manage our nation's forests and public lands. Additionally, it has led to an increase in red tape and hindered healthy forest and wildfire management in the process. Providing relief for the court's decision would provide the USFS and BLM with the ability to execute responsible on-the-ground management decisions, including those that help mitigate wildfire risk.

In 2020 alone, over 4.9 million acres of forested lands were lost due to wildfire. This does not include wildfire impacts to non-forested public lands, which is also substantial. Under the current regulations, already approved public land or forest management projects are often under delayed and unpunctual and subject to litigation designed to block these important projects from taking place. If a project has already been analyzed and included in a land or resource management plan or otherwise received approvals, the agency must be able to move forward with execution of the project without the fear of *post hoc* frivolous litigation. Not only are these lawsuits costly, but



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they also slow and even preclude the ability to carry out land management activities, which leads to an increase in wildfire risk and undermines adaptive management.

NACD supports FWS's decision to enhance management by clarifying the ESA Section 7 consultation process. This will provide natural resource managers with the ability and confidence to carry out important work on the ground. NACD looks forward to continuing to work with the agency on critical issues to ensure that on-the-ground conservation can take place.

A handwritten signature in black ink that reads "Michael Crowder".

Michael Crowder
President
National Association of Conservation Districts