

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AJ03

Endangered and Threatened Wildlife and Plants; Removing the Eastern Distinct Population Segment of the Gray Wolf From the List of Endangered and Threatened Wildlife**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; notice of public hearings.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) announces that we will hold nine public hearings on our proposed rule to remove the Eastern Distinct Population Segment of the gray wolf (*Canis lupus*) from the List of Endangered and Threatened Wildlife established under the Endangered Species Act of 1973, as amended. This action carries out our stated intent in the proposed rule to hold public hearings.

DATES: See **SUPPLEMENTARY INFORMATION** for hearing dates.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for hearing addresses.

FOR FURTHER INFORMATION CONTACT:

Direct all questions or requests for additional information to the Service using the Gray Wolf Phone Line: (612) 713-7337, facsimile: (612) 713-5292, the general gray wolf electronic mail address: GRAYWOLFMAIL@FWS.GOV, or write to: Gray Wolf Questions, U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Ft. Snelling, MN 55111-4056. Additional information is also available on our World Wide Web site at <http://midwest.fws.gov/wolf>. In the event that our internet connection is not functional, please contact the Service by the alternative methods mentioned above. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1-800-877-8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:**Background**

On July 21, 2004, we published a proposed rule (69 FR 43664) to remove the Eastern Distinct Population Segment (DPS) of the gray wolf (*Canis lupus*) from the List of Endangered and Threatened Wildlife established under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). We proposed this action because available data indicate that this DPS no longer

meets the definitions of threatened or endangered under the Act. The gray wolf population is stable or increasing in Minnesota, Wisconsin, and Michigan, and exceeds its numerical recovery criteria. Completed State wolf management plans will provide adequate protection and management to the species in these three States if the gray wolf is delisted in the Eastern DPS. The proposed rule would remove this DPS from the protections of the Act by ending its threatened classification. This proposed rule would also remove the currently designated critical habitat for the gray wolf in Minnesota and Michigan and remove the current special regulations for gray wolves in Minnesota and other Midwestern States. This proposal would not change the status or special regulations currently in place for the Western or Southwestern DPSs of the gray wolf or for the red wolf (*C. rufus*).

In our July 21, 2004, proposed rule, we stated that we would hold public hearings. Consistent with that document, we are now announcing the dates and locations of those hearings.

Hearings

All hearings will consist of an informational open house from 6:30 p.m. to 7 p.m., a presentation on the proposal and question and answer session from 7 p.m. to 7:30 p.m., and the official public hearings from 7:30 p.m. to 9 p.m. We will hold nine public hearings on the following dates and at the following locations:

1. Bemidji, MN, on August 31, 2004, at Bemidji State University, Beaux Arts Ballroom—Hobson Memorial Union, 1500 Birchmont Drive NE.
2. Virginia, MN, on September 1, 2004, at the Mesabi Range Community College, F100—Fine Arts Theater, 1001 Chestnut Street West.
3. Bloomington, MN, on October 6, 2004, at the Minnesota Valley National Wildlife Refuge Visitors Center, 3815 American Blvd. East.
4. Marquette, MI, on September 13, 2004, at Northern Michigan University, Explorer Room, Don Bottum Conference Center, 540 West Kaye Avenue (park in lot #8).
5. Sault Ste. Marie, MI, on September 14, 2004, at Lake Superior State University, Cisler Center, Ontario Room, 650 West Easterday Avenue (park in lots A, B, E, J, or X after 5 p.m.).
6. East Lansing, MI, on September 15, 2004, at Michigan State University, BioMedical and Physical Science Building-Auditorium, corner of Wilson and Farm Lane (parking allowed in staff or faculty spaces after 6 p.m.).

7. Madison, WI, on September 27, 2004, at the University of Wisconsin Union South, 227 North Randall Avenue.

8. Wausau, WI, on September 28, 2004, at the Westwood Conference Center, Westwood Conference Room, 1800 West Bridge Street.

9. Ashland, WI, on September 29, 2004, at the Northern Great Lakes Center, 29270 County Highway G.

Dated: August 6, 2004.

Elizabeth H. Stevens,

Acting Director, Fish and Wildlife Service.

[FR Doc. 04-18617 Filed 8-11-04; 9:23 am]

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants: Notice of Receipt of an Application for an Incidental Take Permit and Availability and Opening of Comment Period for an Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the Red-Cockaded Woodpecker in Association With Mr. Owen Strickler's Timber Harvest of a 75-acre Tract of Forest on the Border of Sussex and Southampton Counties, Virginia**

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This document advises the public that Mr. Owen Strickler (president and owner of Virginia-Carolina Properties) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA), as amended. The application has been assigned permit number (TE090858-0). The proposed permit would authorize the incidental take of a federally endangered species, the red-cockaded woodpecker (RCW) (*Picoides borealis*), known to occur on property owned by the applicant and located off of State Route 612 on the border of Sussex and Southampton Counties, Virginia. The proposed taking is incidental to the planned timber harvest of the 75-acre tract of land. The permit would be in effect for up to 5 years depending on the availability of donor RCWs at Carolina Sandhills National Wildlife Refuge to be translocated for mitigation.

The Service announces the receipt of the Strickler ITP application and the

availability of the proposed Strickler HCP, which accompanies the ITP application, for public comment. In addition, the Service also announces the availability of a draft EA for the proposed issuance of the ITP. This notice is provided pursuant to section 10(c) of the ESA and National Environmental Policy Act of 1969 (NEPA) regulations (40 CFR 1506.6).

The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for the incidental take of the RCW. The final NEPA and permit determinations will not be completed until after the end of the 60-day comment period and will fully consider all public comments received during the comment period.

DATES: Written comments on the permit application, HCP, and EA should be sent to the Virginia Field Office (VAFO) (see **ADDRESSES**) and should be received on or before October 12, 2004.

ADDRESSES: Persons wishing to review the permit application, HCP, and draft EA may obtain a copy by writing the U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061. Requests for the documentation must be in writing to be processed. Documents will also be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30). Written data or comments concerning the permit application, draft EA, and/or HCP should also be addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Virginia Field Office, Gloucester, Virginia. Please refer to permit (TE090858-0) when submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Jolie Harrison or Mr. Eric Davis, VAFO, at (804) 693-6694 (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulation prohibits the "taking" of a species listed as endangered or threatened. Under the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to "incidentally take" listed species, if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

Background

Mr. Strickler has applied to the Service for an incidental take permit pursuant to section 10(a) of the ESA. The Applicant proposes to implement an HCP for the RCW that will allow removal of RCW habitat. The Applicant's proposed timber harvest is likely to result in take, as defined in the ESA and its implementing regulations, of listed species. Authorized take would only affect the RCW; take of other federally listed species is specifically excluded from the proposed action. This permit would authorize the incidental take of one RCW group, consisting of a single male, at Mr. Strickler's property, through otherwise lawful activities, specifically the harvest of 75 acres of timber, occurring in RCW habitat. The HCP and permit would be in effect for a maximum of 5 years upon issuance.

The Applicant proposes the harvest of all mature timber at his 75-acre site. Timber will be harvested using a feller buncher, which will transport cut trees directly to a log deck, where they will be loaded onto a truck and transported to Mr. Strickler's mill. The site will undergo a prescribed burn and subsequently be replanted with loblolly pine (*Pinus taeda*). The southern boundary of the project area is approximately 2,000 feet north of State Route 612 where it joins State Route 615 in Southampton County.

The anticipated incidental take will consist of harm through permanent loss of 75 acres of foraging habitat and a cluster of cavity trees, as well as possible death of one RCW from predation or starvation due to the subsequent lack of shelter or foraging habitat. Mr. Strickler proposes to implement measures to minimize, mitigate, and monitor impacts to the RCW. Through an agreement with the Center for Conservation Biology, College of William and Mary, impacts to the lone male RCW will be minimized by removing him from the project site prior to timber harvest and placing him in a prepared cavity at an active cluster (at the Piney Grove Preserve, Sussex, Virginia) with a subadult female moved in simultaneously. Through an agreement with The Nature Conservancy, if the translocated lone male does not remain at Piney Grove, his loss will be mitigated by translocating a maximum of three subadult pairs from the designated donor population at the Carolina Sandhills National Wildlife Refuge in McBee, South Carolina to the Piney Grove Preserve.

The draft EA considers the environmental consequences of three

alternatives: A no-action alternative, permit issuance (the proposed alternative), and issuance of permit with conditions (selective harvest).

The Service provides this notice pursuant to section 10(c) of the ESA. The Service will evaluate whether the issuance of a section 10(a)(1)(B) ITP complies with section 7 of the ESA by conducting an intra-Service section 7 consultation. The results of the biological opinion, in combination with the evaluation of the permit application, the HCP, EA, and comments submitted thereon, will be used in the final analysis to determine whether the application meets the requirements of section 10(a) of the ESA. If the requirements are met, the Service will issue a permit to Mr. Strickler for the incidental take of one RCW group, consisting of one male, during the proposed harvest of timber on the 75-acre project site. We will make the final permit decision no sooner than 60 days from the date of this notice.

Pursuant to an order issued on June 10, 2004, by the District Court for the District of Columbia in *Spirit of the Sage Council v. Norton*, Civil Action No. 98-1873 (D. D.C.), the Service is enjoined from issuing new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances, as defined by the Service's "No Surprises" rule published at 63 FR 8859 (February 23, 1998), until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with the public notice and comment requirements of the Administrative Procedures Act. This notice concerns a step in the review and processing of a section 10(a)(1)(B) permit and any subsequent permit issuance will be in accordance with the Court's order. Until such time as the June 10, 2004, order has been rescinded or the Service's authority to issue permits with "No Surprises" assurances has been otherwise reinstated, the Service will not approve any incidental take permits or related documents that contain "No Surprises" assurances.

Comments, including names and home addresses of respondents, will be available for public review during regular business hours. Individual respondents may request confidentiality. If you wish us to withhold your name and or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous

comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Author: The primary author of this document is Julia Harrison from the VAFO, Endangered Species Program.

Authority: The authority for this section is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 23, 2004.

Anthony D. Leger,

Acting Regional Director, Region 5.

[FR Doc. 04-18629 Filed 8-12-04; 8:45 am]

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