

Briefing Paper for Departmental Clearance of *Federal Register* Documents

I. Subject: Endangered Species Status for the Southern Sierra Nevada Distinct Population Segment of Fisher

II. RIN (for rulemaking documents): 1018–BD85

III. Docket or tracking number: FWS–R8–ES–2018–0105

IV. DCN (from DTS): FR00003955749

V. Summary: We determine endangered species status under the Endangered Species Act, as amended, for the Southern Sierra Nevada Distinct Population Segment (DPS) of fisher (*Pekania pennanti*). The SSN DPS occurs in California. The effect of this regulation will be to add the SSN DPS to the List of Endangered and Threatened Wildlife. We have determined that designating critical habitat is prudent but not determinable at this time; we are still in the process of assessing this information and plan to publish a proposed rule to designate critical habitat for this DPS in the near future. The NCSO DPS is not warranted for listing.

VI. Is the action controversial? ☒ Yes. ☐ No.

If yes, please answer the following:

- a. What are the controversial issues? Legal challenges by non-profit environmental organization(s) are likely as a result of our revised DPS analysis and our determination of not warranted for listing for the NCSO DPS.
- b. Who will care about these issues? Center for Biological Diversity, Defenders of Wildlife, Environmental Protection Information Center, Klamath-Siskiyou Wildlands Center, Oregon Wild, Sierra Forest Legacy, and the Western Watersheds Project.
- c. How strongly will they care? Highly certain

VII. Communications:

- a. Has the bureau communications office coordinated with DOI communications staff?

☒ Yes. ☐ No.

If yes, please note whom you contacted and how (e.g., email, voicemail):
Christina Meister via email

- b. Does this document require a press release?

☒ Yes. ☐ No.

Press release title: Service Lists the Southern Sierra Nevada Distinct Population Segment of Fisher as an Endangered Species

Press release first paragraph: Today, the U.S. Fish and Wildlife Service listed as an endangered species under the Endangered Species Act the Southern Sierra Nevada distinct population segment of the fisher (*Pekania pennanti*). This rule takes effect on [insert date].

VIII. Is timing critical? ☒ Yes. ☐ No.

Target date to clear DOI: [Click here](#), or as priorities allow.

No-later-than (NLT) date to clear DOI (if applicable): ~~4/25/2020~~ 4/24/2020

If you provided an NLT date, please answer the following:

- a. What is the main driver of the timing? On September 21, 2018, the District Court for the Northern District of California vacated the listing withdrawal and remanded the Service's final determination for reconsideration. In the Court's most recent amended order, the Service is required to submit for publication a final listing determination by April 25, 2020.
- b. What happens if the deadline is missed? In contempt of court

IX. Background: On October 7, 2014, we ~~published a~~ proposed ~~rule in the Federal Register~~ to list the West Coast DPS of fisher as a threatened species. On April 18, 2016, we ~~published a document in the Federal Register withdrawing with drew~~ the proposed rule, concluding that the threats acting upon the DPS were not of sufficient imminence, intensity, or magnitude to indicate that they were singly or cumulatively resulting in significant impacts at either the population or rangewide scales. On October 19, 2016, the Center for Biological Diversity, Environmental Protection Information Center, Klamath-Siskiyou Wildlands Center, and Sierra Forest Legacy filed a complaint for declaratory and injunctive relief, alleging that our determination on the West Coast DPS of fisher violated the Act. On September 21, 2018, the District Court for the Northern District of California vacated the listing withdrawal and remanded the Service's final determination for reconsideration. Following two amended orders, the Service published a revised proposed rule to list the DPS as a threatened species on November 7, 2019, and the Service is now required to submit for publication a final listing determination by April 25, 2020.

X. Is there an information collection associated with this document?

☐ Yes. ☒ No.

If yes, please answer the following:

- a. Does the document have any approved OMB control number(s)? ☐ Yes. ☒ No.

If yes, provide the OMB control number(s) and expiration date(s):

- b. Does the document require ☐ a new OMB control number or ☐ a renewal of an existing approval?

If a new number or a renewal is required, what is the current status?

XI. Approval is requested to send the document to:

- ☒ The Office of the Federal Register for publication, or
☐ OIRA for review.

XII. Primary contact:

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