

The purpose of this memo is to provide documentation for the administrative record regarding our rationale behind the change in direction on the listing of fisher.

On November 7, 2019, we published a revised proposed rule to list the West Coast DPS of fisher as a threatened species; this entity was a singular DPS configuration comprised of several separate subpopulations ranging from southern Oregon to the southern Sierra Nevada in California. In the revised proposed rule, we explained that we had evaluated new information available since our 2014 proposed rule and reconsidered the best available information already in our files, and concluded that this DPS met the definition of a threatened species based on the cumulative effect of multiple threats across its range. After the publication of the revised proposed rule and the closing of its public comment period, we began the process of moving forward with finalizing the listing of the DPS.

However, while this during this process was occurring, we continued to re-examine and in response to the numerous public comments received about the DPS configuration. The strong emphasis in many of the public comments received, both for this revised proposed rule and for our previous proposed rule, led us -we again-to re-examine whether the singular DPS configuration we had proposed was the most ecologically appropriate in the context of conservation of the fisher. The primary subpopulations making up the proposed singular DPS, the NCSO at the northern periphery of the singular DPS range and the SSN at its southern boundary, are considered the “historically native” subpopulations (i.e., those subpopulations of known fishers indigenous to the northern California/southern Oregon region and the southern

Sierra Nevada region, each with unique genetic characteristics). While the NCSO subpopulation also encompasses two other smaller subpopulations in relatively close proximity (NSN and SOC), the vast majority of the general NCSO subpopulation is comprised of fishers historically indigenous to this geographic region. The SSN subpopulation consists solely of fishers historically indigenous to the southern Sierra Nevada region, and there is no ecological or biological connection between them and fishers in the NCSO, a fact acknowledged and underscored by the state of California's recent CESA listing determination which viewed them as wholly separate entities.

While the public comments about our proposed singular DPS configuration presented a broad range of positions, there was also a relatively consistent theme regarding the appropriateness of evaluating and managing these two primarily-indigenous subpopulations separately. In addition to the lack of any ecological or biological connection between these populations, another consistent theme in many of the public comments also led us to consider two other pertinent points as we re-examined the DPS approach: 1. The threats we identified as acting on fishers were not uniform across the range of the singular DPS, with their magnitude and scale being significantly different between the NCSO and SSN subpopulations and, 2. The same was true for conservation actions working to ameliorate threats to fishers, with much more conservation work being done and planned for the NCSO region than for SSN.

In light of all the above, we determined while the revised proposed rule was still in the process of being finalized that the most appropriate path forward was to revise our DPS approach, evaluating the two subpopulations, NCSO and SSN, as separate, individual DPSs. Subsequently, -the Pacific Southwest Regional Office convened a meeting on February 4, 2020 to discuss this decision, with the cadre of Service staff and managers involved with this ~~DPS~~

listing package, including management and staff from Regions 1 and 8, and management and staff from the multiple Ecological Services Field Offices working on the ~~rule~~listing package. During this meeting, ~~all of the information above~~ pertaining to the reasons for revising the DPS approach was discussed ~~in depth~~, as was all the available information relating to the species' condition in each of the split DPSs. This "status" discussion resulted in a determination, agreed to by management from both Regional Offices, that the new NCSO DPS did not meet the definition of either an endangered or a threatened species. It was further concluded that the new SSN DPS was warranted for listing, although at that time it was not determined whether the DPS warranted listing as endangered or threatened. and at the end of the meeting management from both Regional Offices determined the most appropriate path forward was to revise our DPS approach, evaluating whether the two subpopulations, NCSO and SSN, each met the criteria as separate, individual DPSs, and if so, assess the listing status of each. In addition, management from both Regional Offices were in agreement that the NSCO DPS was not warranted for listing, but the SSN DPS was warranted for listing.

From that point, a focused team of staff from both Regions conducted an analysis of the two subpopulations ~~to document and determined~~ that both NCSO and SSN met the DPS criteria for discreteness and significance, ~~and could therefore be evaluated to see if either met the definition of an endangered or a threatened species.~~ Upon ~~further~~ examination of each separate DPS, the team concluded that, while the magnitude of the threats identified in our 2019 revised proposed rule have not changed substantially from our previous consideration, what did change in their analysis was the consideration of their distribution of threats across the ranges of the two separate DPSs, as opposed to the previously singular DPS configuration, and then how the impact of those threats affects each separate DPS where they occur. This analysis revealed

showed that the threats active in the range of the NCSO DPS are substantially less impactful to the fisher populations occupying the area, while the threats in the SSN DPS will have a significantly greater impact on fishers there. In addition, ~~as mentioned above~~, closer examination of conservation efforts intended to ameliorate the effects of threats acting on fishers led us to conclude these efforts provide a greater than previously determined positive effect on fisher populations in the NCSO DPS. These two things combined, an unequal manifestation of both threats and conservation efforts, supported ~~our the~~ change from the 2019 revised proposed rule.⁵ As a result, resulting in our final determination is that the NCSO DPS ~~doesid~~ not meet the definition of either a threatened or endangered species, ~~while and~~ the SSN DPS does ~~meet~~ the definition of an endangered species throughout all its range.