



United States Department of the Interior



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In Reply Refer to:
AESO/SE
22410-2008-F-0369
02-21-03-F-366
02-21-98-F-399-R2
02-21-98-F-399-R1

August 26, 2008

Ms. Jeanine A. Derby
USDA, Forest Service
Coronado National Forest, Supervisor's Office
300 West Congress
Tucson, Arizona 85701

Dear Ms. Derby:

Thank you for your request for formal consultation with the U.S. Fish and Wildlife Service (FWS) pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended (Act). Your request was dated June 12, 2008, and received by us on June 18, 2008. At issue are impacts that may result from the proposed re-authorization of ongoing and long-term grazing on the:

- Deer Creek, Graves,
- Juniper Basin,
- Outlaw Mountain,
- Skull Canyon,
- Skeleton Canyon,
- and Fairchild grazing allotments in the Peloncillo Mountains,

Douglas Ranger District located in Cochise County, Arizona and Hidalgo County, New Mexico.

The proposed action may affect on the:

- threatened New Mexico ridge-nosed rattlesnake (*Crotalus willardi obscurus*) and its critical habitat.

In your letter, you requested our concurrence that the proposed action is not likely to adversely affect:

- threatened Chiricahua leopard frog (*Rana chiricahuensis*),
- the endangered jaguar (*Panthera onca*),
- the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*),
- the endangered Mexican long-nosed bat (*Leptonycteris nivalis*),
- the threatened Mexican spotted owl (*Strix occidentalis lucida*) and its critical habitat,
- and the experimental nonessential population of northern aplomado falcon (*Falco femoralis septentrionalis*).

We concur with your determinations for these six species. Our reasons for these concurrences are documented in Appendix A.

This biological opinion (BO) is based on information provided in the May 15, 2008 biological assessment, the March 11, 2008 Scoping Notice and Request for Comments, telephone conversations, field investigations, and other sources of information. Literature cited in this biological opinion is not a complete bibliography of all literature available on the species of concern, livestock grazing and its effects, or on other subjects considered in this opinion. A complete administrative record of this consultation is on file at this office.

Consultation History

- October 24, 2002: We issued the Final Biological and Conference Opinion on Continuation of Livestock Grazing on the Coronado National Forest (02-21-98-F-0399-R1) (U.S. Fish and Wildlife Service 2002)
- September 24, 2004: We issued the Conference Opinion on the effects of the Coronado National Forest On-going and Long Term Grazing, to proposed critical habitat for the Mexican spotted owl (02-21-98-F-0399-R2) (U.S. Fish and Wildlife Service 2004)
- June 10, 2005: We issued the Programmatic Biological and Conference Opinion for The Continued Implementation of the Land and Resource Management Plans for the Eleven National Forests and National Grasslands of the Southwestern Region (02-22-03-F-0366) (U.S. Fish and Wildlife Service 2005b).
- June 18, 2008: We received your June 12, 2008, request for reinitiation of formal consultation regarding the Deer Creek, Graves, Juniper Basin, Outlaw Mountain, Skull Canyon, Skeleton Canyon and Fairchild grazing allotments.
- July 15, 2008: We issued our draft biological opinion regarding proposed grazing in the Deer Creek, Graves, Juniper Basin, Outlaw Mountain, Skull Canyon, Skeleton Canyon and Fairchild grazing allotments.
- August 19, 2008: We received your comments on the draft biological opinion.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

The seven allotments are located in the Peloncillo Mountains EMA distributed across the following watersheds:

<u>Animas Valley:</u> Deer Creek Juniper Basin	<u>San Bernardino Valley:</u> Fairchild Outlaw Mountain	<u>San Simon Creek:</u> Deer Creek Fairchild Juniper Basin Outlaw Mountain Graves Skeleton Canyon Skull Canyon
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The proposed action as described in the 2002 Biological and Conference Opinion is extended for the duration of the renewed 10-year grazing permits, which will expire in 2018. The forage allocations authorized or Animal Unit Month (AUM), proposed numbers, and season of use will be continued at the existing levels, except as follows:

- **Deer Creek.** 276 cow/calf pairs, October 1 to April 30 (up to 2,186 AUMs). The grazing season would be extended by one month from the current November 1 to April 30 to provide the permittee flexibility to coordinate entry into the allotment with shipping of cattle. The duration of use, 6 months, and forage allocation will be unchanged. In years when cattle go on early, they would come off early in order not to exceed six months use in any year.
- **Outlaw Mountain.** 66 mature cows for six months, November 1 to April 30 (up to 396 AUMs). The season of use would change from the current yearlong use to the dormant season to allow for annual growing season rest.
- **Skeleton and Fairchild.** 272 mature cows or equivalent for 5.5 months, October 1 to March 15 (up to 1496 AUMs). The two allotments would be combined to form a single allotment.
- Proposed improvements are documented in the May 15, 2008, Biological Assessment for these allotments. They include umbrella type trick tanks, pipelines, wells, troughs, dirt tanks, dams, and restoration of existing tanks and damns to provide more reliable water, which should assist in improving livestock distribution. Construction of fences is also proposed to improve livestock distribution and protect aquatic habitats.
- The adaptive management, monitoring, allotment management plans, and range improvements that are part of the proposed action for all seven allotments are designed to enable the Forest Service to meet management goals for improved soil, vegetation, and range conditions as described in your Scoping Notice and Request for Comments and Biological Assessment.

STATUS OF THE SPECIES AND CRITICAL HABITAT

New Mexico Ridge-nosed Rattlesnake

The New Mexico ridge-nosed rattlesnake was federally listed as threatened with critical habitat on August 4, 1978 (43 FR 34479). Critical habitat for the New Mexico ridge-nosed rattlesnake was designated in Bear, Spring, and Indian canyons in the Animas Mountains between 6,048 ft (1,844 m) and 8,320 ft (2,536 m), but is not within the action area of this BO. Our June 10, 2005, Programmatic Biological and Conference Opinion for the Continued Implementation of the Land and Resource Management Plans for the Eleven National Forests and National Grasslands of the Southwestern Region (U.S. Fish and Wildlife Service 2005b) and our October 24, 2002, Biological Opinion on the Continuation of Livestock Grazing on the Coronado National Forest (U.S. Fish and Wildlife Service 2002) include a detailed Status of the Species for the New Mexico ridge-nosed rattlesnakes. Those BOs are available on our website at <http://www.fws.gov/southwest/es/arizona/>, under Document Library; Section 7 Biological Opinions. Herein, we incorporate the status discussions by reference.

The only significant change in the status of this species since the 2002 BO on the continuation of livestock grazing on the Coronado National Forest (U.S. Fish and Wildlife Service 2002) is the effects of the Adobe fire in the Animas Mountains, 2007, and the Whitmire fire, 2008, in the Peloncillo Mountains. High-severity fire can reduce canopy and subcanopy cover that affect microclimate parameters and potentially availability of prey species. The loss of ground cover through fire has resulted in increased erosion and sediment accumulation in talus piles used as denning sites of New Mexico ridge-nosed rattlesnakes.

The Adobe wildfire burned through designated critical habitat for this species, with much of the area in Indian Creek being subjected to high-severity fire effects. Much of the riparian and pine woodland overstory in Indian Creek was lost to this wildfire. Areas in Bear and Spring canyons appear to have been similarly affected, but an evaluation has not occurred. Several occupied talus slides in Indian Creek were partially buried in sediment and ash during post-fire runoff events. Preliminary results from prey base monitoring in 2007 shows no discernable difference inside and outside the burn area. Individual snakes that appeared healthy were located within the severely affected areas of Indian Creek (Charlie Painter, NM Department of Game and Fish, pers. comm. 2007). However, based upon preliminary observations in the Sierra San Luis where a stand replacing fire burned through an occupied canyon in 1989, there may be some long-term effects of fire on the demographics of the snake population (Matt Goode, University of Arizona, pers. comm. 2007). Photo points were established in Indian Creek to monitor vegetation growth.

A total of 3,990 acres were burned by the Whitmire fire in the Peloncillo Mountains. The fire burned through part of three polygons of core New Mexico ridge-nosed rattlesnake habitat identified by Holycross and Smith (2001). Post-fire effects mapping was accomplished by helicopter on June 2, by the Douglas Ranger District Biologist and Fire Management Officer. Preliminary analysis indicated that the fire effects were low and the upper canopy in the core habitat polygons was not impacted.

ENVIRONMENTAL BASELINE

The environmental baseline includes past and present impacts of all Federal, State, or private actions in the action area, the anticipated impacts of all proposed Federal actions in the action area that have undergone formal or early section 7 consultation, and the impact of State and private actions which are contemporaneous with the consultation process. The environmental baseline defines the current status of the species and its habitat in the action area to provide a platform to assess the effects of the action now under consultation.

Description of the Action Area

The action area is located in the Peloncillo Mountains Ecosystem Management Area (EMA) of the Coronado National Forest. The Peloncillo Mountains are located in the southeast corner of Cochise County Arizona and the southwest corner of Hidalgo County, New Mexico. The allotments are located on the north and west portions of the EMA, Figure 1. A description of these allotments is included in the 2002 Biological and Conference Opinion (U.S. Fish and Wildlife Service 2002) and is included here in by reference.

New Mexico Ridge-nosed Rattlesnake

A. Status of the species and critical habitat within the action area

The status of New Mexico ridge-nosed rattlesnake within the action area has not changed significantly since the 2002 BO. Implementation of the Peloncillo Programmatic Fire Management Plan has resulted in two prescribed fires, one wildland fire-use decision, and the Whitmire fire, discussed above, covering approximately 9,997 acres. High-severity fire effects to New Mexico ridge-nosed rattlesnake core habitat (Holycross and Smith 2001, U.S. Fish and Wildlife Service 2005a) have been less than 2.2 acres. Critical habitat is designated only in the Animas Mountains in Hidalgo County, New Mexico and is not designated within the action area of this BO.

B. Factors affecting species environment and critical habitat within the action area

EFFECTS OF THE ACTION

Effects of the action refer to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action, that will be added to the environmental baseline. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur.

New Mexico Ridge-nosed Rattlesnake

The potential overlap of grazing and associated activities within the New Mexico ridge-nosed rattlesnake's active season will remain the same except in the Outlaw Mountain Allotment

season of use is reduced from year-long to November 1 through April 30, which should remove the potential overlap of grazing with the New Mexico ridge-nosed rattlesnake's activity period. A potential increase in overlap with the active season may occur in the Deer Creek Allotment as the season of use may begin one month earlier, October 1st instead of November 1st. However, the Deer Creek Allotment has had no core habitat polygons identified within this allotment (Holycross and Smith 2001). Therefore, since the actual use and AUMs on all the allotments has not changed and the management goals and objectives remain the same, we do not find that the proposed renewal of the 10-year grazing permits, which will expire in 2018, significantly changes the effects of the action from that described in the 2002 BO. For these reasons, we also do not anticipate that the proposed action will affect the ability for the New Mexico ridge-nosed rattlesnake to recover. The cumulative effects on this species in the action area have not changed from those described in the 2002 BO (U.S. Fish and Wildlife Service 2002) and the 2005 BO (U.S. Fish and Wildlife Service 2005b).

CONCLUSION AND INCIDENTAL TAKE STATEMENT

New Mexico Ridge-nosed Rattlesnake

After reviewing the current status of the New Mexico ridge-nosed rattlesnake, the environmental baseline for the action area, the effects of the proposed action, and the cumulative effects, it is our biological opinion that the proposed action is neither likely to jeopardize the continued existence of the New Mexico ridge-nosed rattlesnake, nor likely to result in destruction or adverse modification of critical habitat. No critical habitat has been designated for this species within the action area; therefore, none will be affected. Our conclusion is based on the rationales given in our 2002 biological opinion.

The Incidental Take Statement remains the same including the level of take, effects of the take, Reasonable Prudent Measures, and Terms and Conditions, because we anticipate that effects of the action will be similar to those described in the 2002 biological opinion, but extended for the duration of the reissued grazing permits.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

Conservation recommendations for livestock management activities as described in the 2002 BO and following subsequent reinitiated BOs are included herein by reference.

In order for the FWS to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the FWS requests notification of the implementation of any conservation recommendations.

DISPOSITION OF DEAD OR INJURED LISTED SPECIES

Upon locating a dead, injured, or sick listed species initial notification must be made to the FWS's Law Enforcement Office, 2450 W. Broadway Rd, Suite 113, Mesa, Arizona, 85202, telephone: (480) 967-7900) within three working days of its finding. Written notification must be made within five calendar days and include the date, time, and location of the animal, a photograph if possible, and any other pertinent information. The notification shall be sent to the Law Enforcement Office with a copy to this office. Care must be taken in handling sick or injured animals to ensure effective treatment and care and in handling dead specimens to preserve the biological material in the best possible state.

REINITIATION NOTICE

This concludes formal consultation on the actions outlined in your reinitiation request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

The FWS appreciates the Coronado National Forest's efforts to identify and minimize effects to listed species from this project. For further information please contact Marty Tuegel at (520) 670-6150, (x232) or Sherry Barrett at (x223). Please refer to the consultation number, 22410-2008-F-0369 in future correspondence concerning this project.

Sincerely,

/ s / Sherry Barrett for
Steven L. Spangle
Field Supervisor

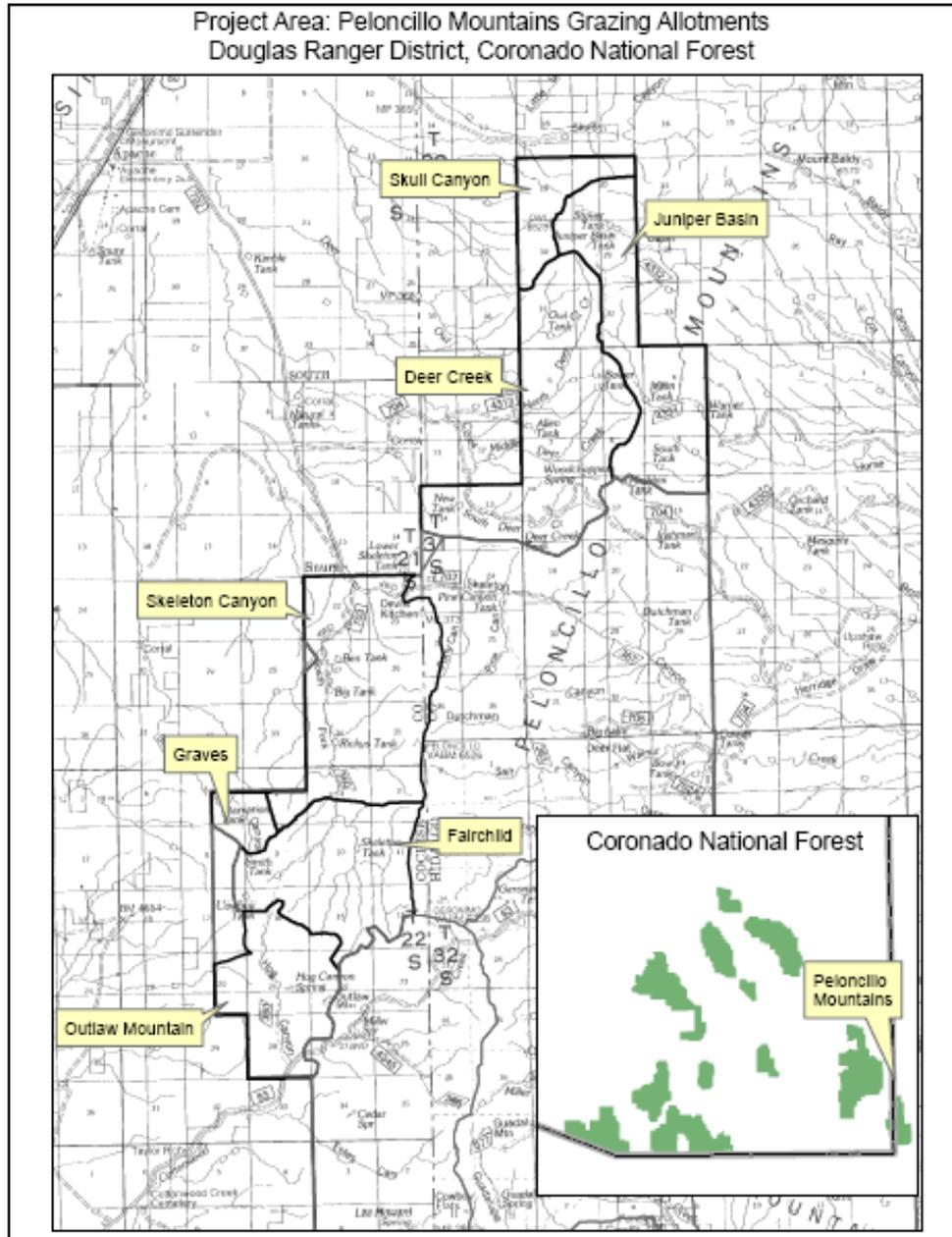
cc: Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Rick Gerhart, Coronado National Forest, Tucson, AZ

Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ

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Figure 1. Action Area



Appendix: Concurrences

CONCURRENCES**Chiricahua leopard frog**

The Chiricahua leopard frog was listed as Threatened in June 2002 (67 FR 40790), without critical habitat. The frog requires permanent or nearly permanent pools or ponds for breeding. The Chiricahua leopard frog has been documented in the Peloncillo EMA, but not within the action area. The Chiricahua leopard frogs exist in Cloverdale Creek watershed. Chiricahua leopard frogs have also been documented in State Line Tank on the Geronimo allotment, about one mile southeast of the Fairchild allotment. However, these locations are in the south Peloncillo Mountains and are outside the action area.

Conclusion

After reviewing the status of the Chiricahua leopard frog, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, we concur that the proposed action may affect, but is not likely to adversely affect, the Chiricahua leopard frog based upon the following:

- While potential habitat and historical locations are known within the action area, no recent occupancy records exist.
- Coronado National Forest's *Chiricahua Leopard Frog Management Guidelines* will be implemented to minimize the potential to introduce nonnative predators and/or amphibian chytrid fungus (*Batrachochytrium dendrobatidis*).
- No critical habitat has been designated for this species, so none will be affected.

Jaguar

The non-U.S. population was listed as endangered in March 1972 (37 FR 6476). The geographical extent of the listing was expanded to include jaguars in the U.S. on July 22, 1997 (62 FR 39147). Jaguars historically occurred in the mountains of eastern Arizona and southwestern New Mexico, including the analysis/project area (Lange 1960). Only male jaguars have been found in Arizona and New Mexico since 1963. Given the location of the project area relative to recent jaguar observations and the remote, rugged characteristics of the allotments, all seven allotments are considered to be jaguar habitat.

On October 24, 2002, we concurred that the effects of the Coronado National Forest ongoing and long-term grazing may affect, but were not likely to adversely affect, the jaguar (U.S. Fish and Wildlife Service 2002).

Conclusion

After reviewing the status of the jaguar, the environmental baseline for the action area, and the effects of the proposed action, we concur that the proposed action may affect, but is not likely to adversely affect, the jaguar based upon the following:

- Confirmed sightings have been reported from the Peloncillo Mountains and adjacent mountain ranges that are connected by corridors of suitable habitat. There is some likelihood that jaguars could occur in the project area during the period that livestock are grazing.
- Proposed grazing and livestock management will not reduce cover in riparian areas or uplands. Herbaceous cover is projected to increase over existing conditions.
- Livestock management activities will not permanently disrupt connectivity corridors within the U.S. or between the U.S. and Mexico.
- The proposed action largely continues the management already in place on the allotments and is not expected to result in effects in a manner or to an extent not considered previously.

Lesser Long-nosed Bat and Mexican Long-nosed Bat

The lesser long-nosed bat and Mexican long-nosed bat were listed as endangered in September 1988 (53 FR 38456) without designated critical habitat. The status of the lesser long-nosed bat and Mexican long-nosed bat remains similar to that described in the 2002 BO but the Mexican long-nosed bat has not been documented in Arizona. Our June 10, 2005, Programmatic BO for the Continued Implementation of the Land and Resource Management Plans for the Eleven National Forests and National Grasslands of the Southwestern Region (U.S. Fish And Wildlife Service 2005b) included a detailed Status of the Species for these species. That BO is available on our website at <http://www.fws.gov/southwest/es/arizona>, under Document Library; Section 7 Biological Opinions. In addition, an up-to-date discussion of the lesser long-nosed bat is provided in the 2007 lesser long-nosed bat 5-year review (U.S. Fish and Wildlife Service 2007a), available at:

http://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/LLNB/LLNB_5yr_Final.pdf.
Herein, we incorporate these status discussions by reference.

After reviewing the status of the lesser long-nosed bat and the Mexican long-nosed bat, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, we concur that the proposed action may affect, but is not likely to adversely affect, the lesser long-nosed bat and the Mexican long-nosed bat, based upon the following:

- There are no roosts within the action area; therefore no direct effects are likely to occur.

- Construction and maintenance of livestock management structures and implementation of rangeland improvements will avoid or minimize the damage or destruction of bat food plants within 40 miles of a roost site.
- Livestock management guidelines and prescriptions will be implemented that facilitate the regeneration and maintenance of bat food plants, including implementation of appropriate drought management policies. This includes minimizing damage to bolting agaves, especially in low flowering years.
- No critical habitat has been designated for these species, so none will be affected.

Mexican Spotted Owl

The Mexican spotted owl was listed as threatened in 1993 (58 FR 14248) and critical habitat was designated in 2004 (69 FR 53182). We appointed the Mexican Spotted Owl Recovery Team in 1993, which produced the Recovery Plan for the Mexican Spotted Owl (U.S. Fish and Wildlife Service 1995). The Recovery Plan summarizes the effects of livestock grazing on Mexican spotted owls in four broad categories: 1) altered prey availability, 2) altered susceptibility to fire, 3) degeneration of riparian plant communities, and 4) impaired ability of plant communities to develop into spotted owl habitat.

On September 27, 2004, we concurred that the effects of the Coronado National Forest ongoing and long-term grazing may affect, but were not likely to adversely affect, the Mexican spotted owl and its proposed critical habitat (U.S. Fish and Wildlife Service 2004). These allotments are not within designated critical habitat

Conclusion

After reviewing the status of the Mexican spotted owl, the environmental baseline for the action area, and the effects of the proposed action, we concur that the proposed action may affect, but is not likely to adversely affect, the Mexican spotted owl and designated critical habitat, based upon the following:

- The rangewide status of the species, the status of the species within the action area, and the effects of the proposed action have not changed from those identified in the 2002 consultation.
- The proposed action largely continues the management already in place on the allotments and is not expected to result in effects in a manner or to an extent not considered previously.
- Mexican spotted owls, while documented within the action area, are not known to nest within the action area and no Protected Activity Centers are within the action area.
- Critical habitat for this species is not designated within the action area and, therefore, no effects on primary constituent elements and critical habitat will occur.

Northern Aplomado Falcon

The northern aplomado falcon was federally listed as endangered on March 27, 1986 (51 FR 6686). Critical habitat for the species has not been designated. Factors cited for listing were habitat degradation (i.e., brush encroachment into open rangeland habitats) and contamination with organochlorine pesticides (51 FR 6686). In 2006, FWS designated the northern aplomado falcon population in New Mexico or Arizona as “non-essential experimental” under section 10(j) of the Act (71 FR 42298). Under section 9 of the Act, a population designated as experimental is treated as threatened, regardless of the species designation elsewhere in its range. In conjunction with the designation of the non-essential experimental population, a special rule was promulgated to enhance survival of the species. This special rule exempted any incidental take, within the boundaries of the non-essential experimental designation, from the section 9 prohibitions against take of this species (71 FR 42298). Experimental non-essential populations are treated as proposed species in regard to section 7, unless they occur within a National Wildlife Refuge or National Park Service unit, in which case they are treated as a threatened species. As such, conferencing on the Aplomado falcon within the Coronado National Forest is only required if a Federal action is likely to jeopardize the continued existence of the species.

A detailed discussion of the current status of this northern aplomado falcon and existing threats to this species is included in our July 26, 2006, Final Rule for the Establishment of a Nonessential Experimental Population of Northern Aplomado Falcons in New Mexico (71 FR 42298) and is included herein by reference.

On October 24, 2002, we concurred that the effects of the Coronado National Forest ongoing and long-term grazing may affect, but were not likely to adversely affect, the northern aplomado falcon (U.S. Fish and Wildlife Service 2002).

Conclusion

After reviewing the status of the northern aplomado falcon, the environmental baseline for the action area, and the effects of the proposed action, we concur that the proposed action may affect, but is not likely to adversely affect, the northern aplomado falcon, based upon the following:

- The rangewide status of the species, the status of the species within the action area, and the effects of the proposed action have not changed from those identified in the 2002 consultation.
- The proposed action largely continues the management already in place on the allotments and is not expected to result in effects in a manner or to an extent not considered previously.
- While transient individuals have been observed in the valley to the east of the action area, there are no recent observations of northern aplomado falcons within the action area.