

**FINAL ENVIRONMENTAL ACTION STATEMENT  
SCREENING FORM  
FOR CANDIDATE CONSERVATION AGREEMENT WITH ASSURANCES  
(CCAA)**

**I. Project Information**

**A. Project name:** Candidate Conservation Agreement with Assurances (CCAA) for Fisher (*Martes pennanti*) for the Stirling Management Area between Sierra Pacific Industries (SPI, applicant) and the U.S. Fish and Wildlife Service (Service).

**B. Affected species:** Fisher (*Martes pennanti*)

**C. Project size (in acres):** The CCAA would encompass the Stirling Management Area (approximately 160,000 acres). The lands enrolled in the CCAA are private lands owned by SPI that contain suitable habitat for the covered species. These lands are located in Butte, Plumas, and Tehama Counties, California.

**D. Brief project description including conservation elements of the plan:** The project (Federal Action) is the issuance of an Enhancement of Survival Permit (ESP) associated with a CCAA between the Service and SPI. The purpose of this CCAA is to address selected conservation needs of the fisher, a federally designated candidate species. Under this 20-year CCAA, SPI and the Service propose to work together within the Stirling Management Area to maintain or improve the status of the covered species and/or its habitat. The Stirling Management Area is located in a portion of the northern Sierra Nevada that was historically occupied by fisher. Based on recent survey efforts conducted primarily on U. S. Forest Service land surrounding the Stirling Management Area, fishers have not been detected adjacent to the enrolled lands, and therefore are not expected to occur in the area. The conservation measure consists of management of fisher denning/resting habitat (mid-mature to mature forests). The maintenance and growth of denning/resting habitat is expected to enhance the fisher's ability to successfully re-occupy the enrolled lands. Over the 20-year period of the agreement, there will be a net increase in the amount of fisher denning/resting habitat on the enrolled lands from the current amount of approximately 23% to approximately 33% of the total enrolled acreage. This net increase is expected to provide a conservation benefit to fishers in the northern Sierra Nevada, should fisher re-occupy this portion of their former range.

When signed, this CCAA will serve as the basis for the Permit under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA) for the incidental take of included species. The CCAA program encourages proactive conservation measures by private landowners while providing them certainty that

future property-use restrictions will not be imposed if their efforts attract any covered species to their enrolled property or result in increased numbers or distributions of the covered species already present. In return for voluntary conservation commitments, the CCAA will extend assurances to the landowner that will allow future alteration or modifications of the enrolled property that are in accordance with the agreed-upon conservation measures. Without this cooperative government-private effort, the fisher would be less likely to occupy the forest in the Stirling Management Area, which is an area that may contribute to conservation efforts for the species.

Efforts to recover the fisher without involving and incorporating private lands would limit our ability to make measurable progress towards future connectivity of fisher populations in California. SPI intends to implement measures to maintain and restore fisher denning/resting habitat and to allow for the reintroduction of fishers onto enrolled lands if the California Department of Fish and Game (CDFG) should implement such a reintroduction into the northern Sierra Nevada.

This agreement produces a net conservation benefit to the fisher and contributes to conservation in the following ways:

- Provides denning/resting habitat within an area that has been identified in the draft CDFG “Feasibility Assessment and Implementation Plan for the Experimental Reintroduction of Fisher (*Martes pennanti*) to Portions of their Historic Range in the Sierra Nevada” as important to re-establishment of fisher populations within their historical range in the Sierra Nevada;
- Contributes to recovery of fisher denning/resting habitat by moving the enrolled SPI forestlands to a condition that supports more denning/resting habitat for the fisher than that which exists today;
- Provides necessary low- to mid-elevation fisher habitat on private lands in an area of limited federal ownership.

***The following additional conservation benefits beyond the conservation measure may occur with the completion of the CCAA:***

- Maintains and provides for structures (hardwoods, snags, trees with cavities, and down logs) through implementation of SPI management practices and corporate policies, which are believed to be essential for maintaining fishers on the enrolled lands beyond the time period of the permit;
- Provides incentive and regulatory assurances to SPI should the Stirling Management Area be determined by CDFG to be an appropriate location to experimentally reintroduce fisher in the northern Sierra Nevada;

- Provides the opportunity to evaluate future larger scale reintroduction efforts on private industrial and federally managed forests, should CDFG proceed with the experimental reintroduction on SPI's enrolled lands;
- Provides the land and habitats necessary to implement the experimental design and monitoring efforts needed to assist with determining and describing mortality, movement patterns, and habitat use of released fishers on private industrial timberlands;
- Provides an opportunity for research and monitoring to assist with determining if this and other similar conservation measures are sufficient to sustain a reproducing fisher population on managed landscapes;
- Provides a foundation for evaluating possible broader reintroduction efforts. Benefits of such efforts could include: 1) an increase in the fisher population; 2) an increase in the potential to connect fisher populations; and 3) a reduction in the effects of any local extirpation to existing fisher populations.

**II. Does the CCAA fit the criteria of a NEPA Categorical Exclusion (516 DM 2 Appendix 1, 516 DM 8)?**

Yes. The CCAA follows the Service's Candidate Conservation Agreement with Assurances final policy and regulations. The CCAA enhances both the maintenance and recovery of fishers by encouraging SPI to voluntarily maintain and increase denning/resting habitat, and by providing a potential location for future reintroduction efforts.

Implementation of this CCAA is expected to result in increased amounts of fisher denning/resting habitat and allow for the potential to increase the distribution of fishers in the wild. SPI has committed to the conservation of the fisher by demonstrating their willingness to retain and increase suitable denning/resting habitat for fishers and intends to allow for the reintroduction of fishers onto the enrolled lands. It is anticipated that the conservation measure and other expected benefits contained within the CCAA will contribute to the conservation and distribution of the species.

**A. Are the effects of the CCAA less than significant on the range-wide population of other federally listed, proposed, or candidate species or other wildlife and their habitats covered under the CCAA?**

Yes, for the reasons that follow.

Species identified below are currently federally listed, proposed, or candidate species and occur in Butte, Plumas, or Tehama counties. The species list was obtained from the Sacramento Fish and Wildlife Office website: request date April 11, 2008; database last updated January 31, 2008.

- a) The following federally-listed or candidate species do not occupy forested habitat or their described range is outside of the enrolled lands: conservancy fairy shrimp

(*Branchinecta conservation*), vernal pool fairy shrimp (*B. lynchi*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), vernal pool tadpole shrimp (*Lepidurus packardi*), green sturgeon (*Acipenser medirostris*), giant garter snake (*Thamnophis gigas*), mountain yellow-legged frog (*Rana muscosa*), California tiger salamander (*Ambystoma californiense*), Hoover's spurge (*Chamaesyce hooveri*), Butte County meadowfoam (*Limnanthes floccosa ssp californica*), hairy Orcutt grass (*Orcuttia pilosa*), slender Orcutt grass (*O. tenuis*), Greene's tuctoria (*Tuctoria greenei*), Western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), northern spotted owl (*Strix occidentalis caurina*), and Webber's ivesia (*Ivesia webberi*).

- b) The enrolled lands provide a minimal portion of the total habitat within the ranges of the Central Valley Steelhead (*Oncorhynchus mykiss*), Central Valley chinook (*O. tshawytscha*). The current known range of the California red-legged frog (*Rana aurora draytoni*) does not include the enrolled lands. Any potential effects of the CCAA on watercourses occupied by these species would be minimized by the application of the California State Forest Practice Rules (FPRs).

**B. Are the effects of the CCAA minor or negligible on other environmental values or resources (e.g., air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, etc.)?**

The effects of the CCAA have a minor or negligible effect on other environmental values or resources (e.g., air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources). SPI manages their land in accordance with an "Option A" sustained yield plan in compliance with the Z'berg-Nejedly Forest Practice Act of 1973 and the FPRs in California. Both of these forest management guidance documents contain resource protection requirements via two avenues. First, they set prescriptive standards for minimum protection levels for all timber harvest-related activities for a multitude of natural resource, socio-economic, and cultural values. Second, a Registered Professional Forester provides an associated cumulative effects analysis for which a State multidisciplinary team review must conclude that a specific Timber Harvest Plan (THP) does not result in a significant adverse impact to soil, air, fish and wildlife, water, or other public trust resource. As such, THPs are intended to provide a functional equivalence of analysis under the California Environmental Quality Act (CEQA).

**C. Would the impacts of this CCAA, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects not result, over time, in cumulative effects to environmental values or resources which would be considered significant?**

Yes. Significant cumulative effects are not expected to occur as a result of the CCAA and issuance of the Permit. The conservation measure in the CCAA maintains or increases the amount of fisher denning/resting habitat (mid-mature to mature forests) over the 20-year permit period. The low elevation forests in the

Sierra Nevada Mountains, on lands covered by this CCAA, have experienced a loss of this forest habitat type in the past due to logging, mining, and forest fires. Increasing forest stands with the fisher denning/resting habitat attributes described in the CCAA would not be considered a significant negative effect to environmental values or resources. In addition, in California the FPRs require the completion of a Cumulative Impacts Assessment for each THP (project). Environmental values and resources that must be considered and reviewed as part of the THP preparation and approval process include watershed, soil productivity, biological, recreation, and visual resources.

**III. Do any of the exceptions to categorical exclusions apply to this CCAA? (from 516 DM 2.3, Appendix 2)** *If the answer is “yes” to any of the questions below, the project can not be categorically excluded from NEPA. Each “no” response should include an explanation.*

**A. Would implementation of the CCAA have significant adverse effects on public health or safety?**

No. Implementation of the proposed CCAA would not have significant adverse effects on public health or safety, as the conservation measure would be restricted to private lands. Moreover, the management associated with the Stirling Management Area is currently managed in accordance with the Z’berg-Nejedly Forest Practice Act of 1973 and the FPRs in California that have been developed to address potential adverse effects on public health and safety. Continuation of forest management on the enrolled lands is expected to occur regardless of approval and implementation of the proposed CCAA and issuance of the Permit.

**B. Would implementation of the CCAA have adverse effects on such unique geographic characteristics as historical or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks?**

No. Implementation of the CCAA will not have significant adverse effects on such areas. In the future, if any such areas are identified and meet criteria for consideration and protection in the State of California, SPI will be required by the State of California to comply with all applicable sections of the FPRs.

**C. Would implementation of the CCAA have highly controversial environmental effects?**

No. The Stirling Management Area has been in private ownership and managed for timber production since about 1903. Over the last 100 years, the amount and spatial distribution of mid-mature and mature forests and forest elements have fluctuated over time. Current forest management practices being implemented by SPI are in accordance with California FPRs. The Stirling Management Area is currently being managed under SPI’s state-approved Option A forest management plan. Currently there is approximately 23% of the area’s acreage in mid-mature

and mature forests. The modeled increase in the amount of mid-mature and mature forests to 33% over the next 20 years exceeds current FPRs requirements.

Controversy does exist over the environmental effects that may occur from forest management of the enrolled lands. Continuation of forest management on the enrolled lands is expected to occur regardless of approval and implementation of the proposed CCAA and issuance of the Permit. However, the conservation measure in the CCAA is a commitment by SPI to increase the amount of mature and mid-mature forest on the enrolled lands over the 20-year period of the permit. Thus, the conservation measure could serve to reduce controversy regarding the retention of forest characteristics important to fishers.

On the enrolled lands, the primary potential risks to existing and future fisher habitat are the loss of denning/resting habitat due to forest management activities. The implementation of SPI's Option A plan and other company policies will allow trees to grow larger before harvest than required under the California FPRs. In addition, the applicant's snag management and habitat retention areas within units will provide an increasing trend in forest structural elements important to fishers during and after the 20-year life of this CCAA. The anticipated benefits are expected to be positive for fishers, as well as for other wildlife species that utilize mid-mature and mature forest stands.

Recent inventory and monitoring efforts conducted on U.S. Forest Service lands around the enrolled lands have not detected fishers. Therefore, since the enrolled lands are not currently occupied by fisher, this agreement could not have highly controversial environmental effects to resident fisher. The conservation measure provided in this CCAA provide an opportunity to maintain and improve denning/resting habitat conditions for fishers if a fisher reintroduction or colonizing event should occur in the future within the Stirling Management Area.

**D. Would implementation of the CCAA have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?**

No. Approval and implementation of the proposed CCAA and issuance of the Permit would not pose highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks, because it is promoting the increase of mid-mature and mature forests and providing incentive for the reintroduction of a native species.

The Stirling Management Area is currently being managed under SPI's State-approved Option A forest management plan. This CCAA does not propose to alter the existing management of these forestlands beyond the commitment to the conservation measure proposed. Fishers have not been detected on the enrolled lands. Therefore, given the absence of fishers and the continuation of existing management of these lands, there are no highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.

The completion of this CCAA provides the applicant with incentive and the regulatory assurances to allow for the reintroduction of fisher to a currently unoccupied portion of their historical range. CDFG is currently assessing the feasibility of conducting an experimental reintroduction of fishers into the Stirling Management Area, because it has been predicted to provide habitat that is suitable in both spatial extent and structure. The feasibility assessment currently being conducted by CDFG also considers availability of fisher prey, potential predators of fishers, transmission of disease, and impacts to California species of conservation concern. CDFG is also evaluating the genetics and potential impact of removal of fisher from source populations in California.

In order for CDFG to implement a reintroduction action, they are required to determine that reintroducing fishers into areas of their former range would not pose potentially significant environmental effects or unique or unknown environmental risks. The experimental reintroduction proposed by CDFG would involve some uncertainty regarding the release area's capacity to support a reintroduced population of fishers. Specific research has not been conducted to provide certainty that the proposed conservation measure is sufficient to sustain a reproducing fisher population. However, the conservation measure is expected to provide for the conservation of fishers in areas historically occupied by the species. If the reintroduction does proceed, this CCAA will provide the opportunity to evaluate future larger scale reintroduction efforts based on monitoring mortality, movement patterns, and habitat use of released fisher.

If CDFG should determine that the experimental reintroduction of fishers to the Stirling Management Area is not appropriate at this time, the CCAA will not have highly uncertain and potentially significant environmental effects, or involve unique or unknown environmental risks. This determination is based on the fact that fishers do not currently occur in the management area and that the conservation measure as provided for in this CCAA meet all other applicable federal and state environmental laws.

**E. Would implementation of the CCAA establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?**

No. Future actions would be reviewed on their own merits for meeting requirements under the Act, its implementing regulations, and other laws. Effects from approval of the proposed CCAA are minor or negligible, and therefore, would not represent a decision in principle about future actions with potentially significant environmental effects.

It is anticipated that this CCAA will establish an example for the development of CCAAs for fisher with other private timber companies and Candidate Conservation Agreements with federal land managers. This example, however, is not expected to represent a decision that will create future actions with potentially

significant environmental effects, because each land owner will have unique opportunities on the lands they manage for addressing the various needs for fisher conservation.

**F. Would implementation of the CCAA be directly related to other actions with individually insignificant but cumulatively significant environmental effects?**

No. Approval and implementation of the CCAA is not directly related to other actions with significant cumulative environmental effects. This action is, however, directly related to supporting an experimental fisher reintroduction effort to the Sierra Nevada by the CDFG. The CDFG is currently assessing an experimental reintroduction effort under the Categorical Exemption Process of California Environmental Quality Act of 1970, as amended. In order to proceed with the experimental reintroduction, CEQA regulations require that CDFG's actions will not be expected to create cumulatively significant environmental effects.

**G. Would implementation of the CCAA have adverse effects on properties listed or eligible for listing on the National Register of Historic Places?**

No. There are no properties listed or eligible for listing on the National Register of Historic Places on the enrolled lands.

**H. Would implementation of the CCAA have adverse effects on listed or proposed species, or have adverse effects on designated Critical Habitat for these species?**

No. As stated in Section II. A of this document, two federally listed species, the California Central Valley Chinook salmon and the California Central Valley steelhead, occur on a small portion of the enrolled lands. Also, a small fraction of the enrolled lands are included within designated critical habitat for both of the above species. The issuance of the ESA section 10(a)(1)(A) ESP would initiate the conservation measure, and, if eventually the fisher were to both 1) become listed under the ESA, and 2) colonize or be reintroduced to the enrolled lands, would provide regulatory assurances and limited authorization for incidental take of fishers. Currently it is uncertain whether these conditions will occur. Surveys or management actions for species other than fishers will not be required as a condition of the CCAA or ESP, and no incidental take of other species is authorized by the CCAA or ESP. The low likelihood of effects of CCAA implementation to the listed salmonids or to designated critical habitat would be further reduced by measures of the FPRs. Further, this CCAA does not prevent the Service from utilizing its authorities to list the fisher, if necessary.

**I. Would implementation of the CCAA have adverse effects on wetlands, floodplains, or be considered a water development project thus requiring compliance with either Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?**

No. The implementation of the conservation measure will not have an adverse affect on wetlands or floodplains and is not considered a water development project. Additionally, impacts of the covered activities on wetlands and water resources within the Stirling Management Area would be minimized by measures in the Z'berg-Nejedly Forest Practice Act of 1973 and the FPRs.

**J. Would implementation of the CCAA threaten to violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment?**

No, implementation of this CCAA does not conflict with any Federal, State, local, or tribal law or other requirement imposed for the protection of the environment. Specifically, the CCAA does not violate the Z'berg-Nejedly Forest Practice Act of 1973 and the FPRs in California, which provide protection for the environment by providing a mechanism in the timber harvest review process to consider protections for laws imposed by federal (ESA specifically), local, and tribal governments.

**IV. ENVIRONMENTAL ACTION STATEMENT**

Based on the analysis above, the “Candidate Conservation Agreement with Assurances (CCAA) for Fisher (*Martes pennanti*) for the Stirling Management Area between Sierra Pacific Industries and the U.S. Fish and Wildlife Service” project meets the qualifications for Candidate Conservation Agreement with Assurances whose implementation represents a class of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this action is categorically excluded from further National Environmental Policy Act of 1969, as amended, documentation as provided by 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1.

Other supporting documents (list):

- Appendix A. Summary of Response to Comments on the Draft Candidate Conservation Agreement with Assurance for the Fisher for the Stirling Management Area
- Final Candidate Conservation Agreement with Assurances for the Fisher for the Stirling Management Area
- Conference Opinion and Findings and Recommendations on Issuance of an Enhancement of Survival Permit for the Fisher (*Martes pennanti*) to Sierra Pacific Industries, Inc.

Concurrence:

\_\_\_\_\_  
Field Supervisor

\_\_\_\_\_  
Date

## **Appendix A. Summary of Response to Comments on the Draft Candidate Conservation Agreement with Assurances for Fisher (*Martes pennanti*) for the Stirling Management Area**

On October 10, 2007 the Fish and Wildlife Service (Service) released the Draft Candidate Conservation Agreement with Assurances (CCAA) for fisher (*Martes pennanti*) for the Stirling Management Area for a 30-day comment period that ended on November 9, 2007. During the comment period two letters and one email were received from the public. One of the comment letters combined comments from two independent conservation organizations. We reviewed all comments received and, where appropriate, have incorporated additional information into the final CCAA. Because of the similarity of some of the comments, we grouped our responses to the comments according to like issues. The following is a summary of the relevant comments and our responses. We also received comments that were outside the scope of the CCAA, namely regarding a fisher reintroduction effort currently being considered by the California Department of Fish and Game (CDFG). We responded to some of the reintroduction related comments where doing so would clarify the nature of the CCAA, or where the comment is within the scope of analysis necessary for the issuance of the permit.

### **Habitat Requirements in the CCAA**

Comment: Commenters were concerned that Sierra Pacific Industries' (SPI) forest management practices do not provide either adequate or optimal habitat for fishers provided by "large blocks of contiguous and interconnected late-successional forest with a high level of structural diversity, high canopy closure, large trees and snags, and few openings."

Response: The final CCAA, Section VII refers to the current information relevant to this concern. There are no studies completed on fishers in the west coast population that have examined fitness parameters that would assist us with understanding quality of habitat to determine "optimal habitat." The perception of fisher being dependent on late-successional forests stems from the fact that fishers use structural elements for denning and resting which, unless provided for by management, are often rare or absent in heavily managed landscapes. Additionally, the Service's 12-month finding stated "Fisher also occupy and reproduce in some managed forest landscapes and forest stands not classified as late-successional that provide some of the habitat elements important to fisher, such as relatively large trees, high canopy closure, large legacy trees, and large woody debris, in second-growth forest stands (Klug 1997; Simpson Resource Company 2003).

Comment: Commenters were concerned that denning and resting habitat descriptions provided in the CCAA do not meet habitat descriptions described in the literature.

Response: The final CCAA, Section VII., provides additional and more recent information from completed and ongoing studies in managed forested landscapes to demonstrate that the CCAA does fall within values presented in the literature.

Comment: Commenters were concerned that the CCAA does not oblige SPI to maintain trees of a specific size.

Response: The Final CCAA, Section VII., pg 11, describes the stand conditions that must be met to be considered fisher denning and resting habitat. This description includes the size of trees and the numbers of trees in the size class.

Comment: Commenters were concerned that the CCAA does not define or require SPI to define a specific required acreage for larger trees to provide fisher habitat.

Response: In Section IV of the CCAA, the conservation measure does not specify a required acreage for the retention of fisher (Lifeform 4) habitat. However, over the 20 years of the permit, the CCAA requires that the portion of the enrolled lands that are in Lifeform 4 be increased from 23% to 33% through retention and growth of forest stands. Section III.D., of the Final Environmental Action Statement Screening Form provides additional information pertaining to the goals, objectives, and assumptions pertaining to the conservation measure in the CCAA.

Comment: Numerous comments were received summarizing current literature as to the importance of large trees, high structural complexity including snags and downed wood, high canopy closure, and structures that provide for rest and den sites for fishers (Powell and Zielinski 1994; Seglund 1995; Dark 1997; Truex et al. 1998; Aubry et al. 2002; Carroll et al. 1999; Mazzoni 2002; Zielinski et al. 2004).

Response: Section VII of the CCAA also used these same sources to document the importance of the above-mentioned habitat elements to fishers. However, the Service must review all available relevant information and analyze the data within context of the area of concern and relevant spatial scales being considered. The data available to the Service occurs at a variety of spatial scales across numerous study areas. Scale is a very important consideration when applying information for the development of conservation measures. As with many wildlife species, fishers likely use landscapes at different spatial (and temporal) scales for different portions of their life history (Powell 1994; Weir and Harestad 2003). Caution must be used when applying data collected differently (vegetation inventory plot vs. satellite imagery) and application of data collected at one spatial scale to a different (stands vs. site vs. structure), because it may lead to incorrect conclusions (Buskirk and Powell 1994; Powell and Zielinski 1994). Many studies in California have presented results at the structure (tree) and site (measurement plot around a structure) scales. Tables 1 and 2 of the CCAA present the range of values associated with resting locations and reproductive den, at structure and sites scales, for several western study areas. The values in Tables 1 and 2 were used to evaluate how the conservation measure, SPI's management practices and policies, and plot data provided by SPI in Table 3 of the CCAA, meet our understanding of fisher habitat.

Comment: One commenter stated concern that the CCAA does not prohibit activities known to be detrimental to fisher and provided the following citation from p. 18780 of the 12-month finding:

“Habitat fragmentation is a concern (for fisher). Clearcutting, selective logging, and thinning change the suitability of fisher habitat by removing overhead cover and insulating canopy, exposing the site to the drying effects of sun and wind

(Buck et al. 1994) or to increased snow deposition, removing prime resting and denning trees, and increasing exposure of the fisher to predators.”

Response: The 12-month finding also states “The effects of timber harvest on fisher habitat depend on the silvicultural prescriptions used and the condition of the habitat prior to harvest. Habitat fragmentation is a concern. Clearcutting, selective logging, and thinning change the suitability of fisher habitat.” Loss and fragmentation of habitat from timber harvest and wildlife continue to be important threats to fishers. However, based on studies conducted on managed timber land subject to both clearcutting and other timber harvest techniques, fishers continue to exist and reproduce in some of these areas (Klug 1997; Simpson Resource Company 2003; Yaeger 2005; Higley and Matthews 2006; Self and Callas 2006). Silvicultural prescriptions and management policies that retain habitat components important to fishers and their prey (large trees with cavities, canopy closure, snags, and down wood) in sufficient amounts apparently allow for fishers to use managed landscapes. Until future research can address the specific amounts and configuration of fragmentation that causes fisher populations to decline, we have to base our knowledge of information on study areas where fishers continue to persist. The expected habitat conditions expressed in the CCAA were developed to be within the reported ranges of the best available information from managed timberlands

### **SPI Policies**

Comment: Commenters were concerned that SPI does not agree to change their management practices to benefit fisher or to curtail timber harvest or other activities within fisher habitat. Additionally, the comments expressed concern that under the CCAA, SPI is agreeing only to continue following their existing forest management guidelines, not to alter them to improve conditions for fisher.

Response: Alteration of management practices is not a requirement of CCAA policy. In the Service’s Candidate Conservation Agreement with Assurances Final Policy (64 Fed. Reg. 32726, June 17, 1999), the Service must determine that the conservation measure provided and the expected benefits, when combined with those benefits that would be achieved if it is assumed that conservation measures were also implemented on other necessary properties, would preclude or remove the need to list the fisher. Conservation benefit can be expressed in many different ways. As stated in the Environmental Action Statement Screening Form (EAS), one of the additional conservation benefits this CCAA is to “Provide the land and habitats necessary to implement the experimental design and monitoring efforts needed to assist with determining and describing mortality, movement patterns, and habitat use of released fishers on private industrial timberlands;” if the CDFG should proceed with a reintroduction into the Stirling management area.

Comment: We received two comments that the CCAA states only that a certain percentage of SPI trees will be at a certain age class by the end of the 20 year agreement; it does not require specific areas or specific features and it does not preclude harvest as soon as the trees reach a certain age.

Response: Correct. The CCAA does not preclude harvest of trees of any age, but in order to meet the increases in habitat required in the CCAA, stands of trees that exist

today will either be retained or grown over the 20-year time period into fisher denning and resting habitat. The CCAA does not rely on individual tree age, size or area for compliance with the conservation measure. The CCAA does describe the specific conditions of stands of trees that must be met, and an increase in the amount of habitat over the time period of the permit.

Comment: Comments stated concern that the agreement does not mandate that SPI provide snags and downed wood. The CCAA says only that SPI will adhere to their own guidelines, but these guidelines do not require that a certain number of snags or downed wood be retained for use by fisher.

Response: The conservation measure in the CCAA does not require for retention of a specified amount of snags or down wood during harvest. However, in section XIX of the CCAA, if the policies regarding managing wildlife habitat described in “Management Practices and Policies on Enrolled Lands” are modified, resulting in reduction of the expected future capability of the land to support fisher, this would require a modification of this CCAA. Such a modification will require SPI to provide written notice and obtain written concurrence from the Service, and may require the Service to amend the permit in accordance with all applicable legal requirements.

Comment: Two comments were received stating that the CCAA does not dictate that a specific percentage of cover be retained for fisher.

Response: The conservation measure requires that over the permit time period the enrolled lands increase from the current 23% fisher denning and resting habitat (Lifeform 4,  $\geq 60\%$  canopy closure) to 33%. The final CCAA includes a provision that SPI will maintain at least 80% of the enrolled lands with at least 50% total overhead cover as measured at 2 feet off the ground (over fisher canopy closure). This measure is included in the CCAA section “Management Practices and Policies on Enrolled Lands.” However as stated in the response above, if this practice is modified it may require a modification of the CCAA.

Comment: One comment received was concerned that the Service did not create specific conservation measures for fisher that must be followed under the CCAA. Instead, the Service allowed SPI to develop their own conservation measures, and even these self-imposed measures are not required by or formally included in the CCAA.

Response: There is no requirement in the Service’s CCAA policy that the Service independently develop conservation measures that must be followed or implemented by landowners. The conservation measure included in a CCAA must meet a standard of approval by the Service. The CCAA does contain a specific conservation measure in Section IV of the final CCAA that will be monitored and must be implemented or the Service may suspend or revoke the permit for cause in accordance with the laws and regulations in force at the time of such suspension or revocation (50 CFR 13.28(a)). In addition, SPI has agree to implement the existing management practices and policies, and if these policies change, they will notify the Service where upon the permit would be subject to modification.

Comment: One comment received stated that the 12 Month Finding for fisher points out that habitat on logging lands under conservation strategies generally does not meet the habitat needs of fisher:

“The HCP conservation strategies generally do not provide the large blocks of forest with late seral structure that appear to be important for sustaining resident fisher populations, particularly for providing denning and resting sites”.

Response: The quote from the 12-month finding referenced here applies to Habitat Conservation Plans (HCPs) that were developed primarily for the either the northern spotted owl and/or marbled murrelet. Within the fisher’s current extent of occurrence in northern California, HCPs are completed for Green Diamond Resource Company and Pacific Lumber Company. In neither of these two HCPs were fisher a covered species, and as such, conservation measures and mitigation in the HCPs were not expected to provide a conservation benefit to fishers. However, we would note that fishers continue to persist and reproduce within the enrolled lands covered by the 1992 Simpson Timber northern spotted owl HCP (Klug,1997).

## **2) Adequacy of CCAA under Service policies**

Comment: We received two comments related to the evaluation of the agreement under Service’s Policy for the Evaluation of Conservation Efforts (PECE) (Federal Register Vol. 68, No. 60, March 28, 2003, p. 15100) and their position that the CCAA does not demonstrate that the agreement will not reduce the need for listing of the fisher as a threatened or endangered species.

Response: The PECE policy is utilized at the time the Service is making a listing decision. At such time, we will use the PECE policy to evaluate whether formalized conservation efforts contribute to making it unnecessary to list the fisher. At that time, we also will evaluate this CCAA based on the certainty of the implementation of the CCAA conservation measure and the certainty of the effectiveness of the CCAA.

Comment: Two comments were received stating concerns that the CCAA, if implemented, should not preclude the federal listing of fisher under the Endangered Species Act.

Response: The CCAA does not preclude listing. The CCAA final rule states “Under a CCAA, non-Federal property owners commit to implement mutually agreed upon conservation measures which, when combined with benefits that would be achieved if it is assumed that those conservation measures which, when *combined* (italics added) with benefits that would be achieved if it is assumed that those conservation measure were to be implemented on other necessary properties, would preclude the need to list the covered species.” [See also FR vol 69, No. 85, May 3, 2004, pg. 24090 Response to Issue 22 and 23]

## **3) National Environmental Policy Act**

Comment: Two of the comment letters we received stated the “The CCAA does not meet the criteria for a Categorical Exclusion (CE) under the Department of Interior’s manual on implementation of the National Environmental Policy Act (516 DM 2).”

Response: It is the Service's decision that the CCAA does meet the criteria for a CE under the Department of Interior's manual on implementation of the National Environmental Policy Act (516 DM 8), effective date May, 27, 2004. The Service's position is that the Stirling Management Area CCAA meets section (1) Research, inventory and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem; and (6) The reintroduction or supplementation of native, formerly native or established species into suitable habitat within their historic or established range, where no or negligible disturbances are anticipated.

#### **4) Reintroduction**

Comment: There is no evidence that habitat on SPI properties is adequate to meet the needs of fisher or that SPI properties contain the most suitable habitat in the northern Sierra Nevada for a reintroduction.

Response: The reintroduction of fishers into the northern Sierra Nevada is not the Service's proposed action. The California Department of Fish and Game (CDFG) is the agency responsible for the trapping, relocation, and release of fishers within the state. CDFG has completed a draft feasibility study for the reintroduction of fishers into the Sierra Nevada. CDFG's feasibility assessment concluded that the habitat conditions on the Stirling Management Area were sufficient to meet the needs of their experimental reintroduction effort.

Comment: Comment received expressed that scientific data and analysis must be provided to establish that removing fishers from the northwestern California population will not pose any real risk of extinction of that population.

Response: This concern has been addressed as an interrelated/interdependent action in our final Conference Opinion (Section IV), which has been completed as a requirement under the Service's CCAA policy.