



FEMA

July 17, 2023

Margaret E. Townsend, Senior Attorney
Freshwater Attorney Endangered Species Program
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211-0374
(via email)

Nicholas S. Cady
Cascadia Wildlands
PO Box 10455
Eugene, OR 97440
(via email)

Subject: Notice of Intent to Sue FEMA for Violating Section 7 of the ESA Regarding the Cook Creek Road Segment Relocation Project, FEMA-DR-4258-OR PW342

Dear Ms. Townsend and Mr. Cady,

We are in receipt of your letter dated May 8, 2023, captioned as a supplemental notice of intent to sue pursuant to the Endangered Species Act (ESA) on behalf of Cascadia Wildlands and the Center for Biological Diversity. In part, you allege that the Federal Emergency Management Agency (FEMA) and the U.S. Fish and Wildlife Service (USFWS or Service) are in violation of Section 7 of the ESA for failing to consider the effect of proposed timber sales by the Oregon Department of Forestry (ODF) resulting from FEMA's financial assistance for the Cook Creek Road project in Oregon.

The Cook Creek Road project involves the rebuilding of a short segment of the Cook Creek Road in the Tillamook State Forest near Tillamook, Oregon, that was washed out during December 2015 storms. FEMA evaluated the effects of its action and consulted with the Service, resulting in the Service's September 16, 2022, concurrence with FEMA's determination that the project would not likely adversely affect the northern spotted owl or the marbled murrelet.

You assert that FEMA should have considered the effects of the proposed project on at least two proposed ODF timber sales, the South Side timber sale, and the Tin Pants timber sale, on federally listed species including the marbled murrelet, as effects of the proposed Cook Creek Road project. You also assert that FEMA violated 7(a)(2) of the ESA by failing to consult with

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the National Marine Fisheries Service (NMFS) regarding the proposed project's effects on the Oregon Coast coho salmon.

FEMA recognizes your concerns and acknowledges the seriousness of protecting ESA-listed species and fulfilling its obligations under the ESA. For that reason, FEMA will revoke the Finding of No Significant Impact (FONSI) and deobligate the funding for this project while we reevaluate the effects of the action on the marbled murrelet and coho salmon. Consequently, FEMA intends to reinitiate consultation with the USFWS and initiate consultation with the NMFS. If you have any questions, please contact me at science.kilner@fema.dhs.gov or (425) 686 5794.

Sincerely,
SCIENCE
A KILNER
Science Kilner
Regional Environmental Officer
FEMA Region 10

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Date: 2023.07.17
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