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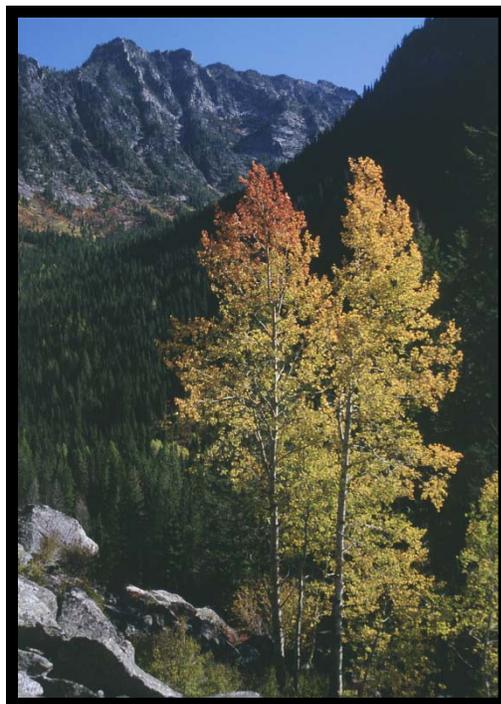
Forest Service

Intermountain  
Region



Supplemented  
July  
2010

# Payette National Forest



## Record of Decision Land and Resource Management Plan

## Photos by David Ede

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# **Record of Decision for the: Final Supplemental Environmental Impact Statement and Forest Plan Amendment Identifying Suitable Rangeland for Domestic Sheep and Goat Grazing to Maintain Habitat for Viable Bighorn Sheep Populations**

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## **Payette National Forest**

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**Located In:**

Adams, Idaho, Valley, and Washington Counties, Idaho

**Responsible Agency:**

USDA Forest Service, Payette National Forest

**Responsible Official:**

Suzanne C. Rainville, Payette Forest Supervisor

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# Table of Contents

1	Introduction.....	1
	Forest Setting .....	1
	Background .....	6
	Review of Disease Transmission and Bighorn Sheep .....	7
2	Decision and Rationale .....	9
	Decision Authority.....	9
	Decision .....	9
	Rationale for the Decision .....	10
3	Public Involvement and Alternatives Considered.....	16
	Government and Public Involvement .....	16
	Tribal Trust Responsibilities.....	16
	County and State Officials .....	17
	Public Involvement .....	18
	Planning Issues.....	19
	Alternatives Considered.....	19
	Alternatives 1B, 2, 5, and 7.....	19
	Alternatives 3, 4, and 6 .....	20
	Alternative 7E.....	20
	Alternative 7G.....	20
	Alternative 7L.....	20
	Alternative 7M.....	21
	Alternative 7N.....	21
	Alternative 7O.....	21
	Alternative 7P .....	22
4	Findings Related to Laws and Authorities.....	22
	Findings Required by Law .....	22
	National Forest Management Act (NFMA).....	22
	Are Amendments to the 2003 Forest Plan Significant or Non-Significant?.....	23
	How Does the Amended Forest Plan Meet Other Laws and Authorities? .....	25
	Hells Canyon National Recreation Area (HCNRA) Act .....	25
	National Environmental Policy Act (NEPA).....	25

Consideration of Short-Term Uses and Long-Term Productivity .....	26
Unavoidable Adverse Effects .....	26
Environmentally Preferable Alternative .....	26
Environmental Justice (Executive Order 12898).....	26
Endangered Species Act (ESA) .....	27
Migratory Bird Treaty Act/Executive Order 13186.....	27
Clean Air Act .....	27
Historic Preservation Act (NHPA) .....	27
Clean Water Act.....	27
Energy Requirement and Conservation Potential .....	28
Invasive Species (Executive Order 13112).....	28
Prime Farmland, Rangeland and Forest Land.....	28
Equal Employment Opportunity, Effects on Minorities, Women .....	28
Wetlands and Floodplains.....	28
Facilitation of Hunting Heritage and Western Conservation.....	28
Other Policies .....	28
5 Conclusion .....	29
Implementation .....	29
Transition to the Forest Plan as Amended .....	29
Administrative Appeals of My Decision .....	29
Contacts.....	31
Conclusion .....	31

## **List of Figures**

Figure 1. Location Map—Payette National Forest .....	2
Figure 2. Payette National Forest Proclaimed and Administrative Boundaries .....	3
Figure 3. Payette National Forest West Side Domestic Sheep and Goat Allotments.....	4
Figure 4. Payette National Forest Eastside Domestic Sheep and Goat Allotments.....	5

# 1 Introduction

Completed in July 2003, the *Southwest Idaho Ecogroup Land and Resource Management Plans Final Environmental Impact Statement (FEIS)* and *Record of Decision (ROD)* were the product of regional planning efforts to revise the 1988 *Payette National Forest Land and Resource Management Plan* (Forest Plan) as required by the 1982 National Forest Management Act (NFMA) implementing regulations (36 CFR 201). The Intermountain Regional Forester received five appeals of the decision to implement Alternative 7 as described in the ROD. Appellants contended that the Intermountain Regional Forester (Regional Forester) violated the NFMA and Hells Canyon National Recreation Area (HCNRA) Act on the Payette National Forest by providing for grazing of domestic sheep within or near the range of bighorn sheep, thus threatening the viability of bighorn sheep through disease transmission.

On March 9, 2005, the Chief of the Forest Service (Chief) concurred that the effects analyzed and the discussion of cumulative effects pertaining to bighorn sheep presented in the FEIS did not adequately address viability or the potential for disease transmission and reversed the Regional Forester's 2003 decision to approve revised management direction for the Hells Canyon Management Area (MA) as it pertained to bighorn sheep and its habitat. The Chief stated that allowing continued domestic sheep grazing in or near occupied bighorn sheep habitat could threaten the viability of bighorn sheep populations within the Hells Canyon area and across the Payette National Forest.

The Chief instructed the Regional Forester to reanalyze the potential impacts of domestic sheep grazing on bighorn sheep viability on the Payette National Forest to ensure habitat is available to support a viable population of bighorn sheep and support a determination of compliance with the HCNRA Act, supplementing the FEIS and to amend the Forest Plan as necessary to address habitat needs to maintain bighorn sheep viability.

In September 2008, the U.S. Forest Service released a Draft Supplemental Environmental Impact Statement (DSEIS) that proposed to modify, delete, and add to the current Forest Plan direction in response to the Chief's instructions. This direction was proposed to be incorporated into the current Forest Plan (USDA Forest Service 2003a) through a Forest Plan Amendment. In January 2010, the Forest Service released an update to the DSEIS that provided interested stakeholders and the public an opportunity to review and comment on improved analyses and alternatives. The Forest Service has now completed the Final Supplemental Environmental Impact Statement (FSEIS) to supplement the 2003 Southwest Idaho Ecogroup Land and Resource Management Plans FEIS. The FSEIS was written to identify suitable rangelands for domestic sheep and goat grazing, identify vacant allotments on the Payette NF for closure and amend the Forest Plan with direction to maintain habitat necessary to support viable populations of bighorn sheep. This ROD describes my decision and its rationale.

## **Forest Setting**

The Payette National Forest is located in west central Idaho, in Adams, Idaho, Valley, and

Washington Counties (Figure 1). The Forest administers an estimated 2.3 million acres of Federal lands that are split into two sections; the west side and the east side (Figure 2).

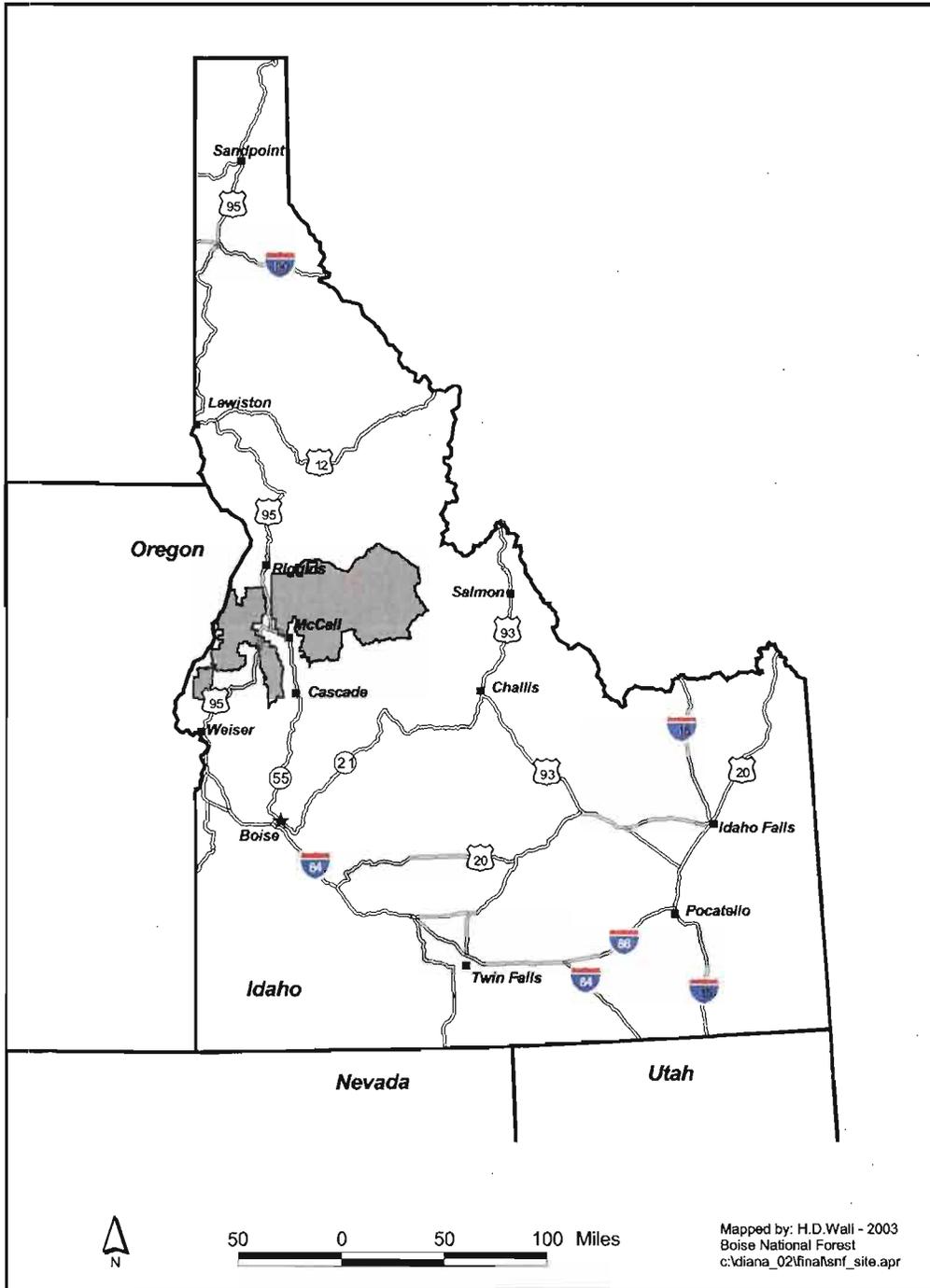
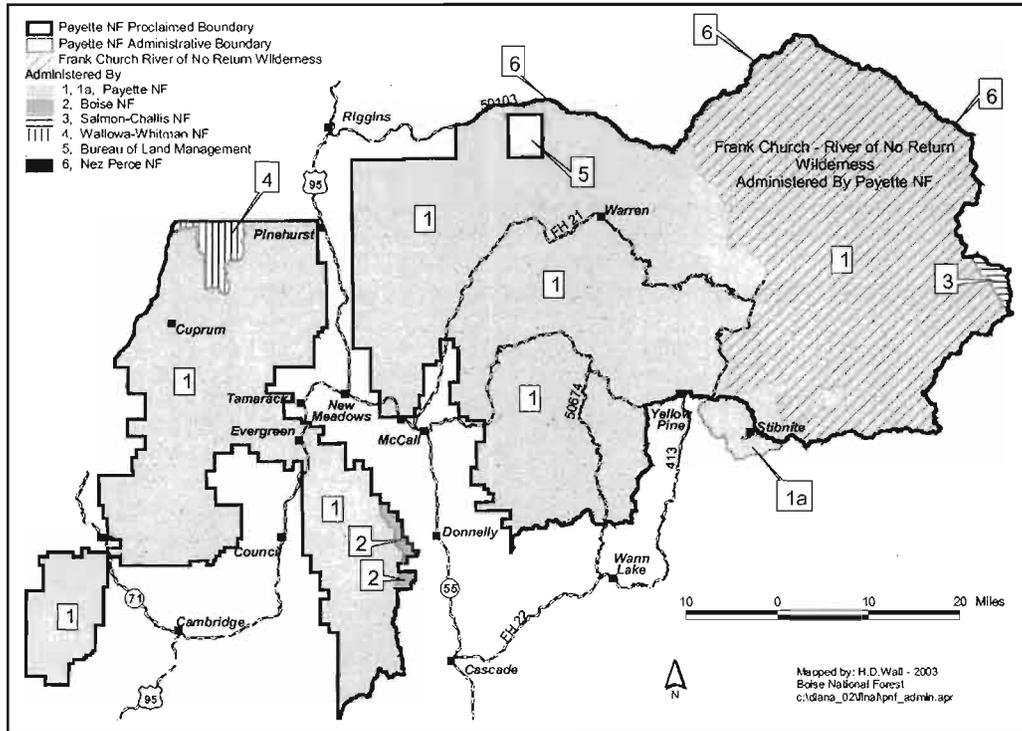


Figure 1. Location Map—Payette National Forest



Payette National Forest Proclaimed and Administrative Boundaries

**Figure 2. Payette National Forest Proclaimed and Administrative Boundaries**

Elevations vary greatly across the Payette National Forest from 1,600 feet in the Snake River Canyon to over 9,500 feet in the Salmon River Mountains. The area contains major mountain ranges and major river systems, such as the mainstem Salmon River, Middle Fork Salmon River, South Fork Salmon River, Little Salmon River, and the Snake River in Hells Canyon. The Payette National Forest provides habitat for nearly 300 terrestrial species, including Rocky Mountain bighorn sheep.

The socio-economic area of influence for the Payette National Forest includes six counties and seven communities. Because people use the surrounding forest and non-forested settings for social and cultural purposes, as well as a variety of goods and services, National Forest management has many influences. People view scenery and wildlife; recreate; and utilize vegetation for cultural, social, and economic reasons. Twenty-four domestic sheep and goat grazing allotments are located on the Payette National Forest (Figures 3 and 4).

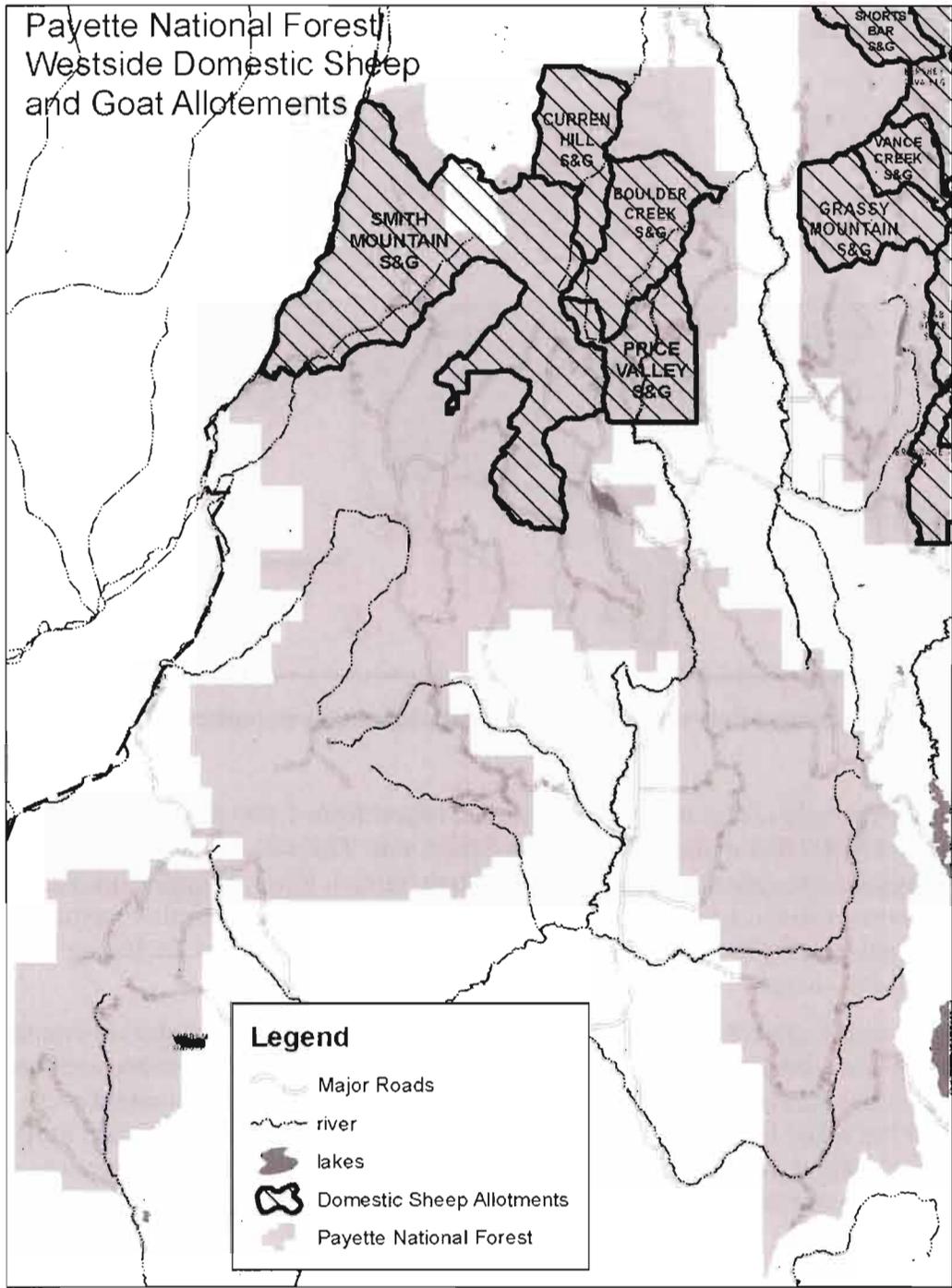


Figure 3. Payette National Forest West Side Domestic Sheep and Goat Allotments

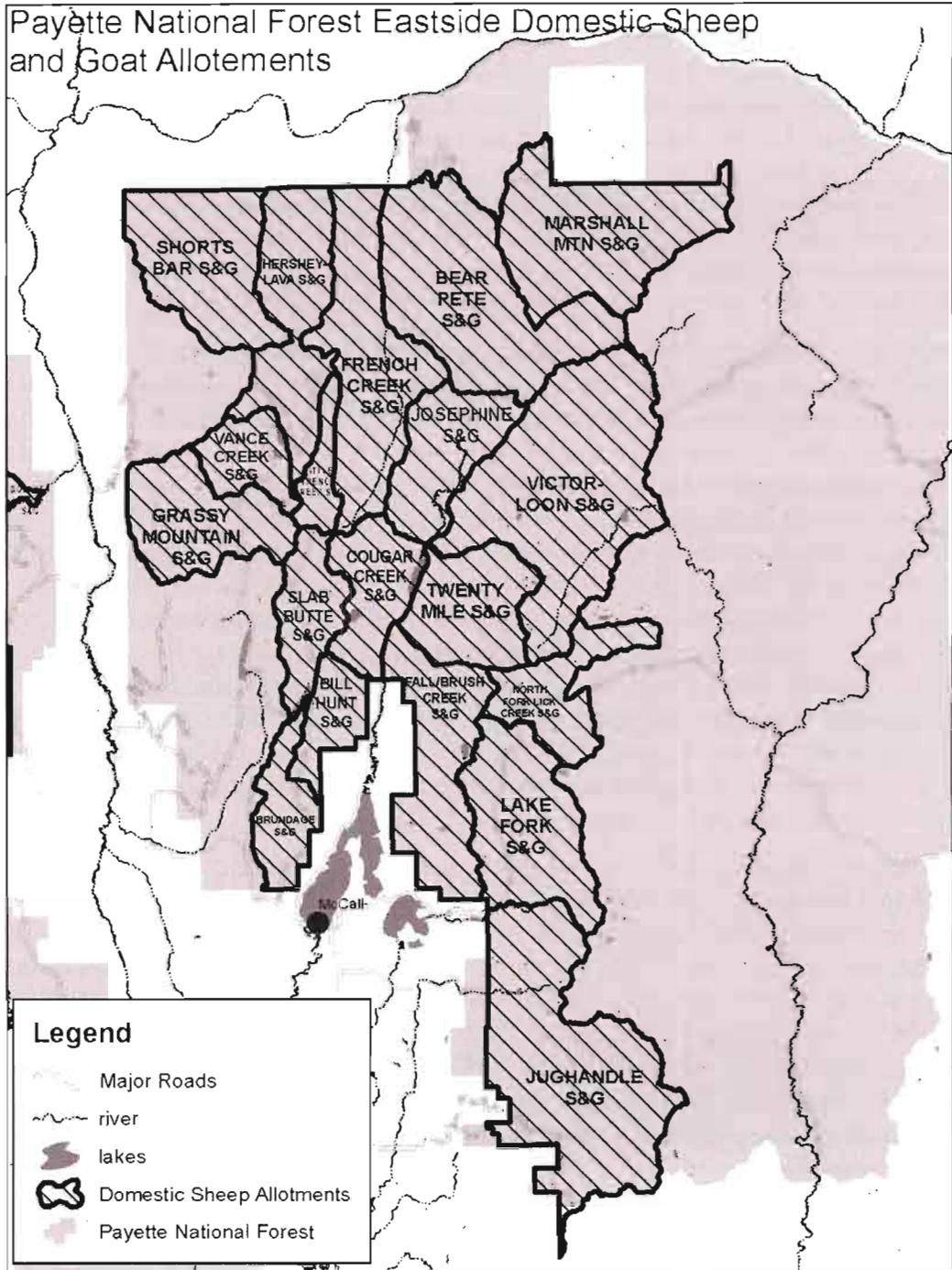


Figure 4. Payette National Forest Eastside Domestic Sheep and Goat Allotments

## Background

Prior to the mid-1800s, bighorn sheep were abundant and widely distributed throughout the western United States, including Idaho. Numbers of bighorn sheep in North America were estimated to be about 1.5 to 2 million sheep. Large declines in both abundance and distribution of bighorn sheep occurred during the late 1800s and early 1900s as a result of overharvest, habitat loss, competition for forage, and disease transmission from domestic sheep that grazed in bighorn sheep habitat. Today, despite recurring recovery efforts, bighorn sheep occur at less than 10 percent of historic numbers. The current distribution is estimated at less than 30 percent of historic distribution, with most existing within relatively small and isolated populations.

Only portions of two bighorn sheep metapopulations remain on the Payette National Forest, one within Hells Canyon of the Snake River and the other among the Salmon River Mountains. Historically, these populations were likely connected by suitable habitats between the two major drainages and recently, bighorn sheep have been observed travelling from Hells Canyon to the Salmon River and back again. More than 10,000 bighorn sheep may have once lived in the Hells Canyon and surrounding mountains, but they were extirpated by the mid-1940s. Through reintroduction, 474 bighorn sheep were transplanted into Hells Canyon between 1971 and 2004. Seven die-offs have been reported since 1971. Today, the population is estimated at 850 animals. The Salmon River metapopulation was never extirpated. Winter population surveys conducted in 2001, 2003, and 2004 document at least 508 bighorn sheep within the various drainages of the Salmon River and 210 bighorn sheep in the South Fork Salmon River and Main Salmon River. Historic accounts of major die-offs of bighorn sheep in the Salmon River Mountains began in approximately 1870. The population has experienced periodic die-offs and population decline since that time. The current estimated numbers of bighorn sheep in hunting units in and around the Payette National Forest has decreased 47 percent since 1981.

During the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, large numbers of domestic sheep were grazed on the Payette National Forest. In 1915, 174,445 sheep were permitted to graze on the Payette National Forest. This number declined throughout the 20<sup>th</sup> century to around 18,300 in 2009. Today, four permittees are authorized through term grazing permits to graze sheep on the Payette National Forest. Both statutory and case laws infer that a term grazing permit represents a privilege, not a property right, to use National Forest System lands and resources. Procedures exist to modify or cancel term grazing permits. Although the Multiple Use Sustained Yield Act of 1960 directs that National Forests provide for multiple uses, such as range, it also states that some land will be used for less than all resources and periodic adjustments in use to conform to changing needs and conditions are allowed.

Extensive scientific literature supports the relationship between disease in bighorn sheep populations and contact with domestic sheep although the mechanisms of disease transmission are not fully understood. Field observations have associated bighorn sheep respiratory disease events when observed near domestic sheep, which has led to numerous independent research efforts. The results of this research provide strong evidence that bighorn sheep have a high probability of contracting fatal pneumonia following contact with domestic sheep. As a result, many Federal land management agencies and State wildlife managers recommend eliminating shared use of ranges by bighorn and domestic sheep.

## Review of Disease Transmission and Bighorn Sheep

Free-ranging bighorn sheep are susceptible to many diseases. The most important of these is bronchopneumonia, which is usually associated with bacteria in the genera *Pasteurella* and *Mannheimia* (Bunch et al. 1999, Miller 2001). Pneumonia caused by these bacteria has produced partial-to-complete die-offs of herds across the species' range, with the frequency of die-offs being particularly high in the northwestern United States (Monello et al. 2001). The current abundance and distribution of the species appears to be largely limited by recurrent pasteurellosis epidemics (Hobbs and Miller 1992, Jorgenson et al. 1997, McCarty and Miller 1998).

A long history of large-scale, rapid, all-age die-offs in bighorn sheep has been documented across Canada and the United States, many presumed associated with domestic animal contact (Shackleton 1999). Although limited knowledge of transmission dynamics exists (Garde et al. 2005), extensive scientific literature supports a relationship between disease in bighorn sheep populations and contact with domestic sheep. The literature includes both circumstantial evidence linking bighorn die-offs in the wild to contact with domestic animals and controlled experiments where healthy bighorn sheep exposed to domestic sheep displayed subsequently high mortality rates (Foreyt 1989, 1990, 1992; Foreyt et al. 1994; Onderka et al. 1988; Onderka and Wishart 1988; Garde et al. 2005). While much of the evidence for disease transmission from domestic sheep to free-ranging bighorn sheep is circumstantial, a large literature base has emerged that documents bighorn sheep die-offs near domestic sheep.

Although various stressors and organisms have been implicated in causing bighorn sheep die-offs, death is most often attributed to bacterial pneumonia caused by *Pasteurella* spp. and *Mannheimia haemolytica*. However, the interaction of disease outbreaks with other stressors (both disease and otherwise) in bighorn sheep populations is poorly understood. Recent research suggests the complex interactions of disease agents themselves increases uncertainty in diagnosis and may also predispose bighorn sheep to secondary disease events. Additional research is needed on the interactions of disease pathogens, but it is reasonable to expect bighorn sheep are susceptible to diseases caused by multiple pathogens that result in multiple disease cycles (e.g., *Mycoplasma ovieneumoniae*, viruses, internal and external parasites, and other bacterial taxa).

Additional stressors include overcrowding on limited range; loss of escape cover; harassment by dogs; encroachment by humans; heavy snowfall and other weather stressors (Bunch et al. 1999); parasitism; poor nutrition; predation; and other human disturbances such as roads, habitat degradation, noise, genetics, high population densities; capture and restraint techniques; breeding behavior; the presence of other wildlife, and high dust levels (Festa-Bianchet 1988, Jenkins et al. 2000, Jones and Worley 2004, Foreyt 1998 Monello et al. 2001). These stressors may reduce the ability of bighorn sheep to resist disease (Garde et al. 2005)

On the Payette National Forest, 21 percent of bighorn sheep summer source habitat and 9 percent of winter source habitat is within domestic sheep and goat allotments and trailing routes that cross source habitat. Bighorn sheep utilizing these habitats are at increased risk for disease when domestic sheep are on the allotments. A risk of contact with resultant disease transmission may occur from any overlap between source habitat and domestic sheep and goat allotments and the travel corridors that bighorn sheep traverse between their source habitats.

The 1982 NFMA planning regulations provide direction for managing fish and wildlife habitat to maintain viable populations of existing native vertebrate species within the planning area

(36 CFR §219.19 and §219.27(a)). The regulations state that habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. Although the NFMA provides direction on viability, a recent court case (*Lands Council v. McNair Decision*, No. 07-35000 (9<sup>th</sup> Circuit, July 2, 2008)), stated that the NFMA is explicit that wildlife viability is not the Forest Service's only consideration when developing site-specific plans for National Forest System lands. The NFMA states that the Forest Service must provide for multiple use and sustained yield and include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness.

The HCNRA Act provides direction for the "administration, protection and development" of the HCNRA. Although grazing is identified as one of several traditional uses of the recreation area, the act and its implementing regulations require that the Payette National Forest manage livestock grazing in a manner compatible with the protection and maintenance of bighorn sheep or their habitat in the HCNRA. Several bighorn sheep herds utilize the HCNRA and move freely back and forth to other National Forest System and BLM lands, including the Payette National Forest. Grazing domestic sheep on allotments on or adjacent to the HCNRA puts bighorn sheep at risk of contracting pasteurellosis (pneumonia) with subsequent mortality.

On July 29, 2009, the Regional Forester added bighorn sheep to the Sensitive Species list on all Forests in the Intermountain Region. The objectives of sensitive species management are to prevent listing under the Endangered Species Act (ESA), avoid or minimize impact to species whose viability has been identified as a concern, maintain viable populations of native species, and to develop and implement management objectives for populations and habitat of sensitive species.

## 2 *Decision and Rationale*

### Decision Authority

I have been delegated the authority to make this decision by the Secretary of Agriculture and Chief of the Forest Service (36 CFR 219.10 (f)).

### Decision

I have decided to select Alternative 7O with implementation modifications (7O modified). This decision amends the 2003 *Payette Land and Resource Management Plan* as described in Appendix O of the Final Supplemental Environmental Impact Statement (FSEIS), identifies lands as suitable for domestic sheep and goat grazing and closes the vacant Shorts Bar Domestic Sheep and Goat allotment. The Amended Forest Plan Standards and Guidelines and monitoring plan and the closure of the Shorts Bar Allotment are effective 30 days after the decision is made (Appendix O). Alternative 7O modified will be implemented as follows:

- 2010—Continue grazing as authorized in the 2010 Annual Operating Instructions for the remainder of the 2010 grazing season
- 2011—Implement management as described for Alternative 7P for one grazing season
- 2012—Implement management as described for Alternative 7N for one grazing season
- 2013—Implement management as described for Alternative 7O

**2010—Continue 2010 Annual Operating Instructions:** Permittees will be notified of my decision and the implementation schedule; grazing will continue as authorized for 2010 grazing season. The following areas will be unsuited for domestic sheep and goat grazing: all of the Curren Hill Allotment; the portion of the Smith Mountain Allotment that lies within the HCNRA and the following pastures areas that lie either within or outside of the HCNRA: the Deep Creek, Echols Butte, Snake River/Indian Creek and the north and west portions of the Smith Mountain pastures; the northern portion of the Hershey Lava Allotment; and the entire French Creek Allotment. An estimated 75,329 acres are identified as suitable rangelands for domestic sheep and goat grazing. In addition to trailing routes within the areas noted above, the Salmon River Driveway south of the intersection with the Hornet Creek Road and Marshall Mountain will not be authorized for domestic sheep use. Monitoring measures and Forest Plan direction will be implemented as described in Appendix O of the FSEIS.

**2011—Implement Management as Described for Alternative 7P for One Grazing Season:** On the west side of the Payette National Forest, all acres of the Curren Hill, Boulder Creek, and Surdam Allotments will be designated as unsuited for domestic sheep grazing. The western 65 percent of the Smith Mountain Allotment and the western 15 percent of the Price Valley Allotment will also be designated as unsuited for domestic sheep grazing. On the east side of the Payette National Forest, all of the Shorts Bar, Little French Creek, French Creek,

Marshall Mountain, and North Fork Lick Creek Allotments will be designated as unsuited for domestic sheep and goat grazing. The northeast 75 percent of Hershey Lava, eastern 15 percent of Josephine, western 75 percent of Bear Pete, southern 50 percent of Victor-Loon and eastern 75 percent of Twenty Mile will be designated as unsuited for domestic sheep and goat grazing. An estimated 46,106 acres will be identified as suitable rangelands for domestic sheep and goat grazing. Trailing will not be authorized in areas designated as unsuited for domestic sheep and goat grazing as displayed in the FSEIS. Monitoring measures and Forest Plan direction will be implemented as described in Appendix O of the FSEIS.

**2012—Implement Management as described for Alternative 7N for One Grazing Season:**

On the west side of the Payette National Forest, all of the Curren Hill, Boulder Creek, and Surdam Allotments will be designated as unsuited for domestic sheep grazing. The western 65 percent of the Smith Mountain Allotment and the western 15 percent of the Price Valley Allotment will be designated as unsuited for domestic sheep and goat grazing. On the east side of the Payette National Forest, all of the Shorts Bar, Grassy Mountain, Vance Creek, Hershey Lava, Little French Creek, French Creek, Marshall Mountain, and North Fork Lick Creek Allotments will be designated as unsuited for domestic sheep and goat grazing. The eastern 15 percent of Josephine, western 75 percent of Bear Pete, southern 50 percent of Victor-Loon and eastern 75 percent of Twenty Mile Allotments will be designated as unsuited for domestic sheep and goat grazing. An estimated 38,392 acres are identified as suitable rangelands for domestic sheep and goat grazing. Trailing will not be authorized in areas designated as unsuited for domestic sheep and goat grazing as displayed in the FSEIS. Monitoring measures and Forest Plan direction will be implemented as described in Appendix O of the FSEIS.

**2013—Full Implementation of Alternative 7O:** On the west side of the Payette National Forest, all of the Curren Hill, Boulder Creek, and Surdam Allotments will be designated as unsuited for domestic sheep grazing. The western 65 percent of the Smith Mountain Allotment and the western 15 percent of the Price Valley Allotment will be designated as unsuited for domestic sheep and goat grazing. On the east side of the Payette National Forest, all of the Shorts Bar, Grassy Mountain, Vance Creek, Hershey Lava, Little French Creek, French Creek, Josephine, Bear Pete, Marshall Mountain, Victor-Loon, North Fork Lick Creek, and Lake Fork Allotments will be designated as unsuited for domestic sheep and goat grazing. The eastern 75 percent of the Twenty Mile and the northern 10 percent of the Jug Handle Allotments will be unsuited for domestic sheep and goat grazing. An estimated 31,592 acres are identified as suitable rangelands for domestic sheep and goat grazing. Trailing will not be authorized in areas designated as unsuited for domestic sheep and goat grazing as displayed in the FSEIS. Monitoring measures and Forest Plan direction will be implemented as described in Appendix O of the FSEIS.

## **Rationale for the Decision**

Over the past four years, I have gained an understanding and appreciation for the complexities and controversy surrounding the issue of disease transmission between domestic and bighorn sheep and the potential economic consequences of restricting domestic sheep grazing on the Forest. In making my decision, I considered the preponderance of scientific literature that supports the potential for disease transmission between the species and opposing arguments that question the science and dispute the connection. Although I carefully considered public

comments and the issues identified through the planning process, I am sure that my decision will not satisfy everyone.

As instructed in the Chief's direction regarding the appeal review of the FEIS for the Forest Plan, the viability analysis for bighorn sheep on the Payette National Forest has been completed. As part of the assessment, I reviewed the available bighorn sheep source habitat, its distribution across the Payette National Forest, and its congruity. In addition, I considered how bighorn sheep are using and have used the source habitat at a landscape scale internal to the Payette National Forest and between adjacent Federal lands. I also reviewed the relative risk of foray contact with permitted domestic sheep and reviewed the disease model.

A long history of large-scale, all-age die-offs in bighorn sheep exists across Canada and the United States, many associated with domestic sheep contact. Although limited knowledge of transmission dynamics exists, extensive scientific literature supports the relationship between disease in bighorn sheep populations and contact with domestic sheep. The literature documents both circumstantial evidence linking bighorn die-offs in the wild to contact with domestic animals and controlled experiments where healthy bighorn sheep exposed to domestic sheep resulted in bighorn sheep mortality. Recent serological research has documented the transmission of specific pathogens between domestic and bighorn sheep that are non-lethal in domestic sheep but lethal in bighorn sheep.

Despite the large body of evidence, the economic consequences of restricting domestic sheep grazing have polarized the issue. Some scientists and others, primarily from agricultural disciplines, contend that disease transmission between bighorn sheep and domestic sheep is not a relevant factor in bighorn sheep distribution and population declines in the wildland environment. I have taken these arguments into consideration while making my decision. I considered the degree of scientific uncertainty concerning the risk of foray contact and potential disease transmission. Arguably, much of the evidence is circumstantial; however, the compilation of cases throughout several decades does contribute to an increasing body of evidence that overwhelmingly demonstrates bighorn sheep near domestics are at risk for disease transmission, even though "contact" may not have actually been observed.

The disease review sections of the FSEIS consider a large body of peer reviewed and published literature spanning several decades that address the arguments. While there clearly are gaps in the knowledge base on the causal factors and mechanisms of bighorn sheep die-offs and disease transmission between the species, the majority of literature supports the potential for disease transmission between the species, documents bighorn die-offs near domestic sheep, and supports the management option of keeping these species separate to prevent disease transmission. Further, there is no peer reviewed literature that suggests bighorn sheep can be grazed with domestic sheep without concern for disease transmission between the species. Scientists from both sides of the issue also recommend that the species be kept separate until the disease transmission science is better understood.

The analysis conducted for the FSEIS recognizes the uncertainties but clearly focuses on the Agency's responsibility to provide habitats to support viable populations of bighorn sheep, particularly given the risks that the species currently faces relative to the devastating impacts of disease.

The analysis for the FSEIS uses published literature and expert knowledge about bighorn sheep habitat and life history traits to model the potential implications of contact and disease

transmission in populations on, or adjacent to, the Payette National Forest. For the analysis, we worked with population and disease modeling experts from the Center for Animal Disease Modeling and Surveillance from the University of California at Davis to develop models and analyses based on telemetry data collected by Idaho Department of Fish and Game, Oregon Department of Fish and Wildlife, and Washington Department of Fish and Wildlife from bighorn sheep populations that utilize habitat on or adjacent to the Payette National Forest. These data include over 54,000 telemetry points, representing approximately 400 individuals for the two metapopulations. The data portray the actual movement of bighorn sheep in the field. As part of the analysis, actual data were used for the models to limit the number of assumptions. The models were developed to better understand bighorn sheep habitat suitability, the potential for contact between bighorn sheep and domestic sheep, and the inferences for disease transmission between the species. Outputs from this information helped inform the cumulative effects analysis and provided a relative comparison between the alternatives carried into detailed study. These models include 1) a bighorn sheep source habitat model, 2) a risk of contact model that utilizes a bighorn sheep core herd home range analysis and bighorn sheep foray analysis, and 3) a disease model.

I considered outputs derived from the models as a basis for comparing alternatives with respect to the risk of foray contact between domestic and bighorn sheep, and to estimate implications for disease transmission between the species in the short-term (3-15 years) and the long-term (over 15 years). Three factors were considered in assessing the potential impacts of disease on populations: 1) rate of contact between bighorn sheep and domestic sheep, 2) probability that contact will result in transmission of disease, and 3) effect of disease on the bighorn sheep population. The rate of contact was estimated by using a large telemetry data set to model core herd home ranges and bighorn sheep forays outside of home ranges relative to the availability of source habitats. Telemetry data indicate that one bighorn ram has travelled up to 35 kilometers; however, the data indicate that the vast majority of forays end at 26 kilometers. Forays have been documented occurring mostly within source habitat and the analysis has shown that bighorn sheep are 97 percent less likely to occur in non-habitat. Outputs of the core herd home range and foray analyses were used to determine the likely rate of bighorn sheep contact with domestic sheep and goat allotments. The source habitat model was used to estimate the amount of bighorn sheep summer source habitat receiving protection and the percentage of rangelands on the Payette National Forest identified as suited for domestic sheep grazing for each alternative.

Determining the probability that a bighorn will reach an occupied allotment and that contact between the species will result in disease transmission is problematic. In a similar analysis applied to populations of endangered Sierra Nevada bighorn sheep, researchers assumed that any cohabitation with domestic sheep was equivalent to contact and subsequent disease transmission (i.e., 100 percent probability of a contact resulting in disease transmission). In the analysis for this FSEIS, we used a range of probabilities of contact resulting in disease transmission because there is so much uncertainty surrounding this parameter and essentially no research that would allow its estimation. The values we used were 5 percent, 10 percent, 25 percent, 50 percent, 75 percent, and 100 percent. By using a range of values, we also were able to address arguments that question the hypothesis that bighorn sheep have a high likelihood of contracting fatal respiratory disease following contact with domestic sheep. Under current management (i.e., Alternative 7), the Little Salmon, Main Salmon South Fork, Upper Hells Canyon, and Sheep Mountain populations have a high probability of extirpation, even when the probability of a disease outbreak given contact is assumed to be low (i.e., 1 in 20 or 0.05).

Although I considered 28 alternatives, my decision space was fairly limited. My decision space was bounded by the following criteria:

- Provide adequate habitat to support a viable population of bighorn sheep as directed in regulations implementing the NFMA,
- Comply with the HCNRA Act,
- Honor tribal rights and interests,
- Avoid or minimize impacts to bighorn sheep, which are identified as a sensitive species,
- Eliminate overlap of domestic sheep and goat allotments with bighorn sheep core herd home ranges,
- Maintain domestic sheep and goat grazing where the risk of contact can be avoided to address the Multiple Use Sustained Yield Act,
- Implement monitoring measures and Forest Plan direction to provide habitat that supports viable bighorn sheep populations, and
- Provide resources to implement the decision that are reasonable for the long term.

Based on the analysis completed, comments received, a thorough review of the science and alternative arguments, I chose Alternative 7O modified as the selected alternative to be implemented in 2010. I believe the selected alternative provides adequate habitat to support a viable population of bighorn sheep as directed in regulations implementing the NFMA; it complies with the HCNRA Act; honors tribal rights and interests, eliminates overlap of domestic sheep and goat allotments with core herd home ranges, and best met the other decision criteria listed above. Although implementing Alternative 7O modified will require additional monitoring and compliance with the Forest Plan direction, I am willing to invest the resources to provide some time for the grazing industry to find alternate grazing opportunities. In the analysis, Alternatives 7N and 7O provide the greatest opportunity for bighorn sheep population expansion within habitat due to limited domestic sheep and goat grazing in source habitat. Alternative 7O provides for more assurance of future expansion of bighorn sheep populations in and around the Payette National Forest. Alternative 7O also meets the needs for a sensitive species as it does not contribute to a further downward trend in bighorn sheep population numbers.

Alternative 7O modified includes implementation of management described under Alternative 7P for 2011, where the highest risk for foray contact areas will be unsuited for domestic sheep and goat grazing (FSEIS 2-12, 13 3-100,101). Approximately, 90 percent of bighorn sheep summer source habitat is protected and 46 percent of rangelands suited for domestic sheep are retained. The annual rate of contact for Main Salmon/South Fork herd is 0.12 and Upper Hells Canyon herd is 0.05. Most herds have a probability of extirpation less than 25 percent, assuming a disease outbreak given contact of 0.25 (1 in 4) within 100 years (Table W-18). The exceptions are the Upper Hells Canyon and Sheep Mountain herds that have a probability of extirpation of 40 and 100 percent within 100 years, respectively. Obviously, the lower the probability of contact, the more likely a bighorn sheep population will persist. Under Alternative 7P, we estimate that a disease outbreak may occur every 19 years, assuming a probability of disease outbreak given contact of 0.25. I believe that this risk for contact is acceptable for a 1-year period only.

Alternative 7O modified includes implementation of management described under Alternative 7N for 2012, where additional areas of risk for foray contact are identified as unsuited for domestic sheep and goat grazing (FSEIS, pages 2-11, 2-12, 3-100). Under

Alternative 7N, 92 percent of bighorn sheep summer source habitat is protected and 38 percent of rangelands suited for domestic sheep are retained. The annual rate of contact for Main Salmon-South Fork herd is 0.08 and Upper Hells Canyon herd is 0.03. Most herds have a probability of extirpation of less than 15 percent assuming a probability of disease outbreak given contact of 0.25 (1 in 4) (Table W-19). The exceptions are the Upper Hells Canyon and Sheep Mountain herds that have a probability of extirpation of 24 and 100 percent, respectively. Under Alternative 7N, we estimate that a disease outbreak may occur every 31 years, assuming a probability of disease outbreak given contact of 0.25. I believe that this risk for contact is acceptable for the 1-year period only.

Under Alternative 7O, additional areas of risk for foray contact are identified as unsuited for domestic sheep and goat grazing in 2013 and beyond (FSEIS, pages 2-12 and 3-100). Under this alternative, 94 percent of bighorn sheep summer source habitat is protected and 31 percent of rangelands suited for domestic sheep are retained. The annual rate of contact for Main Salmon/South Fork herd is 0.04 and Upper Hells Canyon herd is 0.03. Most herds have a probability of extirpation less than 10 percent (i.e., 1 in 10), with a 0.25 contact/outbreak assumption (Table W-20). The exceptions are the Upper Hells Canyon and Sheep Mountain herds that have a probability of extirpation of 22 and 100 percent, respectively. This alternative was designed to remove all areas of foray risk of contact and keep remaining allotments as intact as possible and provide adequate habitat for bighorn sheep viability and future expansion of the species. Under Alternative 7O, we estimate that a disease outbreak may occur every 46 years, assuming a probability of disease outbreak given contact of 0.25. I believe this is the appropriate risk level for long-term management of domestic sheep and goat grazing while providing adequate habitat for bighorn sheep populations.

In selecting Alternative 7O modified, I am making a range suitability determination based on the risk of contact during a foray and probability of disease transmission. None of the models considered the effect that implementing monitoring measures and Forest Plan direction would have on the probability of contact between the two species. The investment in monitoring and compliance with Forest Plan direction will decrease the risk of foray contact and potential of disease transmission and allow us to safely implement Alternative 7O modified. Given current population levels, the low probability of foray contact, and compliance with Forest Plan direction and monitoring, allowing a gradual reduction in suited grazing lands maintains a low risk of extirpation. Based on current and expected resources for monitoring, implementation of Alternative 7O modified is feasible.

We used the risk of contact model to assess two potential cumulative effects scenarios: 1) domestic sheep management on Bureau of Land Management (BLM), Nez Perce National Forest, State, and private lands would be managed as they are currently (C0), and 2) domestic sheep grazing on all adjacent Federal lands would be curtailed while existing domestic sheep grazing would continue on State and private lands (C1). Under the first scenario (C0), the model suggested an additional 1.59 contacts per year. The majority of the additional contacts were from Federal lands along the Main Salmon River. The cumulative contacts per year under Alternatives 7P, 7N, and 7O are 1.80, 1.72, and 1.68, respectively. Under the second scenario (C1), the model suggested an additional 0.50 contacts a year attributable to State and private lands adjacent to the Forest. The cumulative contacts per year under Alternatives 7P, 7N, and 7O were 0.70, 0.62, and 0.58, respectively. The implications of these additional contacts, particularly from adjacent Federal lands, are substantial and contribute more to contact risk between the

species than any of the action alternatives. Although the disease model was not run for the cumulative effects analysis, the increased risk of contact would dramatically increase extirpation probabilities.

In making my decision, I considered cumulative effects. During the public comment period, I received letters that stated, "Given the probabilities of contact from off-forest private lands sources, excluding domestic sheep on Federal lands is futile." Activities that occur on private lands are outside my control. By implementing Alternative 7O modified, I believe we can successfully manage the low level of foray contact risk with this alternative. The Forest Plan Standards and Guidelines will allow the Forest Service to manage the risk of Alternative 7O modified so it will not add to the greater risks left on the landscape that are outside the control of the Payette National Forest. I have the responsibility to analyze cumulative effects on Forest Service administered lands, and disclose them to the public. The analysis conducted recognizes these uncertainties but clearly focuses on the Forest Service's responsibility to provide adequate habitat to support viable populations of bighorn sheep, particularly given the risks that the species currently faces relative to potential impacts from disease. I believe that given the cumulative effects, Alternative 7O modified meets the needs of bighorn sheep as a sensitive species by not further contributing to a downward trend in the population numbers. The regulations implementing NFMA require that I select an alternative that provides habitat to support at least a minimum number of reproductive bighorn sheep and the habitat is well distributed so that those bighorns can interact with others in the planning area. For this document, the definition of planning area is lands administered by the Payette National Forest.

An extensive Socio-Economic analysis was completed. Under Alternative 7O modified, employment and income associated with estimated permitted sheep will be less than the current levels. A regional economic model estimates that up to 28 jobs could be lost. If habitat for bighorn sheep populations is provided, the unique nature of these hunts, demand for bighorn sheep permits, and increasing popularity of nature-based tourism suggest that the role bighorn sheep play in local recreation economies could remain stable or increase.

My decision to implement Alternative 7O modified will balance National Forest use, honor tribal rights and interests, and comply with Federal laws and regulations. The most difficult aspect of making this decision is determining what level of risk (i.e., probability that a contact results in a disease outbreak) is acceptable. People perceive risk differently. In many cases there is a considerable degree of scientific uncertainty about risk decisions (e.g., uncertainty about whether findings in experimental studies can be extrapolated to wildland conditions or about how to estimate model parameters when little data are available). I would be kidding myself if I thought there was some level of risk that everyone would find acceptable as there are many ways to define acceptable risk and each gives preference to the views of different stakeholders in the debate. What I do know is that zero risk is unattainable without removing all domestic sheep from the landscape. My job is to balance risk of exposure with the mission of the Forest Service. As directed by the regulations implementing NFMA, the Forest Service must provide for multiple use and sustained yield. Livestock grazing is one component of multiple use, providing wildlife habitat to support viable bighorn sheep populations is another. Implementation of my decision will not provide all bighorn sheep the same level of protection; the outcome will depend on the health of each animal and herd. However, Alternative 7O modified will provide adequate habitat to support a viable population of bighorn sheep while continuing to provide grazing opportunities on the Forest.

With implementation of Alternative 7O modified, I am making the decision to close the Shorts Bar Allotment to any further livestock grazing. This allotment was vacant at the time of Forest Plan Revision and was inadvertently overlooked. The allotment has not been grazed under a term grazing permit since 1990 and was waived back to the Forest Service in 1992. A temporary 4-year grazing permit was issued between 1998 and 2001. Upon review of the allotment, it was determined that the range conditions were not conducive to further livestock grazing of any type. This determination was based on the presence of steep slopes, limited forage, lack of water sources outside of riparian areas and erosive soils. As such, this allotment is identified as unsuited for either domestic sheep and goat grazing or cattle and horse grazing. Because the allotment has not been used for several years, there will be no economic impact realized from its closure or adverse effects to tribal rights and interests or wildlife resources. Of the 21,328 total acres within the allotment boundary, 5,256 acres are identified as capable. Classifying the 5,256 acres as unsuited for livestock grazing and closing the allotment removes them from the rangeland resources base.

*Part*

## *3 Public Involvement and Alternatives Considered*

### **Government and Public Involvement**

#### **TRIBAL TRUST RESPONSIBILITIES**

The United States Government has a unique relationship with Federally recognized American Indian tribes. Decisions concerning management on Federal lands can effect tribal community well being. As Federal agencies undertake activities that may affect tribes' rights, property interests, or trust resources, care must be taken to implement Agency policies, programs, and projects in a knowledgeable and sensitive manner respectful of tribes' sovereignty and needs. The intergovernmental consultation process serves as the primary means for the Federal agencies to carry out their tribal trust obligations.

Consultation is not a single event; it is a process that leads to a decision such as this ROD. Consultation can be either a formal process of negotiation, cooperation, and policy-level decision making between tribal governments and the Federal Government, or a more informal process typically involving staff-to-staff discussions. Consultation can be viewed as an ongoing relationship between an agency and a tribe, characterized by consensus-seeking approaches to reach mutual understanding and resolve issues.

I have consulted formally and informally with the Nez Perce, Shoshone-Bannock, and Shoshone-Paiute Tribes and the Confederated Tribes of the Umatilla Indian Reservation

regarding development of the Forest Plan amendment. Consultation through this process has served several purposes:

- To identify and clarify issues;
- To provide for an exchange of existing information and identify where information is needed;
- To identify and serve as a process for conflict resolution;
- To provide an opportunity to discuss and explain the decision; and
- To fulfill the Federal trust obligations.

While no Native American Indian reservations are located within the Payette National Forest or the its socio-economic area of influence, ancestor's of the modern day Nez Perce, Shoshone-Bannock, and Shoshone-Paiute Tribes and the Confederated Tribes of the Umatilla Indian Reservation were present in this area long before the Payette National Forest was established. The basis of each tribe's status rests within the context of the U.S. Constitution provisions for Federal Government's powers for treaty making with other sovereignty. A tribe's legal status is also derived through agreements with the U.S. Government; congressional and executive branch recognition of the tribe; and Federal court interpretations of Indian law and legal documents (e.g., treaties, executive orders, agreements, Federal statutes, and other Government-to-Government agreements). Refer to both the FEIS and the FSEIS for specific information concerning each individual tribe.

Since this analysis was conducted as a supplement to the FEIS for the 2003 Forest Plan, consultation efforts conducted for that process are included with the additional efforts conducted for this analysis. The elements of the 2003 Forest Plan that directly responded to issues concerning tribal community well being remain unchanged and will continue to be implemented as part of Forest Plan direction following this decision.

Specific elements of this decision that tribes identified as having bearing on the tribal community well being fall into two broad categories: (1) restoration of bighorn sheep populations and (2) harvest ability of bighorn sheep. Ensuring harvest ability of culturally important bighorn sheep and access to areas culturally or traditionally important for hunting the species is essential to the well being of American Indian communities.

As discussed in the FSEIS Tribal Resources section, my decision provides adequate habitat for viable populations of bighorn sheep on the Payette National Forest and also allows for expansion of the species. My decision also provides for traditional or culturally important areas where tribal members may hunt bighorn sheep.

## **COUNTY AND STATE OFFICIALS**

The Forest provided periodic status and project updates to County and State agencies and officials. Consultation with county officials and the State of Idaho indicates that a balance between the resource needs of bighorn sheep and grazing permittees is desirable. Consultation with the State governments of Oregon and Washington indicates no major conflicts between the direction in the amended Forest Plan and the goals and objectives of these Government entities. The Payette National Forest made various efforts during the supplementation and amendment process to understand and consider the policies and perspectives of other agencies and governments.

## **PUBLIC INVOLVEMENT**

Public scoping and involvement on the FEIS was extensive and spanned a 7-year period. The risk for disease transmission from domestic sheep to bighorn sheep and the subsequent population declines were identified early and noted as a concern by the U.S. Fish and Wildlife Service (USFWS). It was assumed for the FEIS that disease transmission can occur. Only one comment was received during the 7-year period questioning that assumption. Tribal consultation, both informal and formal, was also extensive during the 2003 Forest Plan development process.

The Notice of Intent to prepare a DSEIS and amend the Forest Plan was published in the Federal Register in April 2007 (FR 72:18197–18198). The Forest Service has a long standing policy supporting the commitment to encourage cooperation between Federal, State, local, and tribal governments. Cooperating status was requested and granted beginning in August 2007 to the States of Idaho, Oregon, and Washington and the tribal governments of the Nez Perce, Shoshone-Bannock, and Shoshone-Paiute Tribes and the Confederated Tribes of the Umatilla Indian Reservation. Prior to the first meeting, each Cooperating Agency and Tribal Representative was designated to represent their State or Tribe by the respective Governor or Tribal Chair. Representation was reverified halfway through the process.

At the August 2007 meeting, and again at the May 2009 meeting, the Forest Service reviewed the established operational protocols and National Environmental Policy Act (NEPA) process. The roles and responsibilities of the Federal Agency and the Cooperating Agencies and Tribal Nations were also discussed. In those reviews, it was emphasized that the Forest Service retained the authority to make decisions for the SEIS, act as an expert, and author the document. The States and Tribes were to act as technical experts, bring their knowledge and data to the analysis, inform the Forest Service of pertinent policy expertise, provide comments, and review information. Meetings with the Combined Team continued thru January 2010. Documentation of meetings can be found in the meeting notes.

The DSEIS was made available to the public in October 2008. The comment period closed in March 2009. During the comment period, the Forest conducted several public meetings and provided presentations on the DSEIS to public groups as requested. Over 14,000 comments on the DSEIS were received during the comment period. The full response to public comment is included in the Final SEIS. The Forest Interdisciplinary Team (IDT) reviewed the comments and prepared information on what work needed to be updated based on the comments to the DSEIS. In May 2009, this information was shared with the cooperating agencies, States, and tribal representatives.

In January 2010, the *Update to the Draft Supplemental Environmental Impact Statement* was made available to the public for a 45 day comment period. During the comment period, the Forest Service conducted public meetings in Boise, Lewiston, Lapwai, McCall, and Weiser. The Forest received 11,600 comments during the comment period on the update. A summary of public comments and agency responses is provided in Appendix A of the FSEIS. Comments generally fell into the following perspectives: (1) save the bighorn sheep; (2) provide for domestic sheep grazing; (3) use all of the science; (4) expand the analysis to include more economics information; and (5) provide for tribal rights.

## **PLANNING ISSUES**

As a supplement to the FEIS for the Payette Forest Plan, this analysis focused on the significant issues identified in the FEIS regarding disease transmission that the Forest had not adequately addressed in that assessment. The background surrounding these issues can be found in the FEIS.

### Terrestrial Wildlife Habitat and Species

Issue Statement 1: Forest Plan management strategies may affect habitat for terrestrial wildlife species, including species that are listed or proposed for listing under the Endangered Species Act, Region 4 sensitive species, species of special interest, species at risk, and Forest Management Indicator Species.

Issue Statement 2: Forest Plan management strategies may affect disruption, vulnerability, and disease risk to terrestrial wildlife species.

### Rangeland Resources

Issue Statement: Forest Plan management strategies may affect rangeland resources, including lands considered suitable for livestock grazing and the form of livestock grazing management authorized under permit for the Payette National Forest.

### Tribal Rights and Interests

Issue Statement: Forest Plan management strategies may affect the availability of resources and the use of traditional places important to American Indian rights and interests.

## **Alternatives Considered**

I considered 28 alternatives (FSEIS, pages 2-1 thru 2-13) of which 14 were analyzed in detail. The 14, which include the 7 alternatives evaluated in the FEIS for the 2003 Land and Resource Management Plan, are listed below. Fourteen alternatives were considered but dropped from detailed study (FSEIS, pages 2-4 thru 2-8).

## **ALTERNATIVES 1B, 2, 5, AND 7**

Alternatives 1B, 2, 5, and 7 were analyzed in the 2003 FEIS. Alternative 7 was the selected alternative. The portion of Alternative 7 tied to bighorn sheep viability, disease transmission between domestic sheep and bighorn sheep, and compliance with the HCNRA Act was remanded back to the Regional Forester for improved and additional analysis. These alternatives are similar in that they do not designate any acres on the Payette National Forest as unsuitable for grazing by domestic sheep and all trailing routes remain open. Little or no habitat is available to provide for viability of bighorn sheep. They do not address disease transmission between domestic sheep and bighorn sheep; 100 percent of the total risk of contact between bighorn and domestic sheep remains on the landscape. These alternatives respond to rangeland resources by determining 100,310 acres on the Payette National Forest as suited for domestic sheep grazing. They provide little or no long-term harvest ability of bighorn sheep for tribal members. None of these alternatives comply with the HCNRA Act. For bighorn sheep as a Sensitive Species, these alternatives will impact individuals or habitat with a consequence that the action may contribute to a trend toward Federal listing or cause a loss of viability to the populations or species.

## **ALTERNATIVES 3, 4, AND 6**

Alternatives 3, 4, and 6 were also analyzed in the 2003 FEIS. They determined suitable rangeland portions of the Smith Mountain Allotment that overlaps current bighorn sheep habitat as unsuitable for domestic sheep grazing. MA #1, located outside of grazing allotments, was also determined to be unsuitable for domestic sheep grazing. No trailing routes were closed. These alternatives determined 7,228 acres as unsuitable for domestic sheep grazing, which does not address disease transmission from domestic sheep to bighorn sheep. The risk of contact for this alternative for the Main Salmon South Fork herd is 95 percent per year. The risk of contact for this alternative for the Upper Hells Canyon Herd is 112 percent per year because more than one contact can occur per year. These alternatives affect rangeland resources by determining 7,228 acres as unsuited and 93,082 acres as suited for domestic sheep grazing. Alternatives 3, 4, and 6 greatly reduce the harvest ability for tribal members. These alternatives are not compliant with the HCNRA Act. For bighorn sheep as a Sensitive Species, these alternatives will impact individuals or habitat with a consequence that the action may contribute to a trend toward Federal listing or cause a loss of viability to the populations or species.

## **ALTERNATIVE 7E**

Alternative 7E designates no area within the Payette National Forest as suitable for domestic sheep grazing and leaves no trailing routes open to use within the entire Payette National Forest. This alternative reduces the risk of contact between bighorn sheep and domestic sheep from the Payette National Forest to zero. Alternative 7E provides the most habitat for viable populations of bighorn sheep. This alternative affects rangeland resources by determining 100,310 acres as unsuitable for domestic sheep grazing. By eliminating the risk for contact, Alternative 7E may provide the tribes the greatest long-term ability to harvest bighorn sheep in all traditional locations influenced by the Payette National Forest. This alternative would have a beneficial impact on bighorn sheep as a Sensitive Species.

## **ALTERNATIVE 7G**

In the DSEIS, populations of bighorn sheep were identified using the Geographic Population Range (GPR) model. The GPR was developed utilizing the 2006 Risk Analysis that is no longer in effect. Alternative 7G utilizes the GPRs as a boundary only (not tied to the 2006 Risk Analysis) and designates all land within the Hells Canyon and Salmon River GPRs as unsuitable for domestic sheep grazing. This alternative also closes all trailing routes within the GPRs. This alternative affects rangeland resources by determining 61,842 acres as unsuitable for domestic sheep grazing and 38,468 as suited. Tribal trust responsibilities may be provided for in the short term, but not in the long term. Harvest of bighorn sheep in culturally important areas is greatly diminished. Alternative G is compliant with the HCNRA Act by maintaining a separation between bighorn and domestic sheep that is likely to keep the two species apart at current population levels. For bighorn sheep as a Sensitive Species, this alternative will impact individuals or habitat with a consequence that the action may contribute to a trend toward Federal listing or cause a loss of viability to the populations or species.

## **ALTERNATIVE 7L**

Alternative 7L was developed using the updated quantitative risk analysis and landmarks, such as watershed divides, streams, roads, and allotment boundaries, to make implementation easier.

This alternative removes only the very highest risk areas from domestic sheep grazing and keeps as much suitable range land open as possible.

This alternative addresses disease transmission from domestic sheep to bighorn sheep by determining 35,999 suitable acres as unsuitable for domestic sheep grazing and closes all trailing routes within the alternative area. This alternative affects rangeland resources by determining 35,999 acres as unsuitable for domestic sheep grazing and 64,311 acres as suitable. Tribal trust responsibilities may be provided for in the short term, but not in the long term. Harvest of bighorn sheep in culturally important areas is greatly diminished. Alternative 7L is not in compliance with the HCNRA Act. For bighorn sheep as a Sensitive Species, this alternative will impact individuals or habitat with a consequence that the action may contribute to a trend toward Federal listing or cause a loss of viability to the populations or species.

### **ALTERNATIVE 7M**

Alternative 7M was developed using the updated quantitative risk analysis and landmarks, such as watershed divides, streams, roads, and allotment boundaries, to make implementation easier. This alternative was designed to remove more risk from the landscape and keep grazing outside of the core herd home range areas. This alternative addresses disease transmission from domestic sheep to bighorn sheep by determining 57,065 suitable acres as unsuitable for domestic sheep grazing and closing all trailing routes within the alternative area. This alternative affects rangeland resources by determining 57,065 suitable acres as unsuitable for domestic sheep grazing and 43,245 acres as suited. Habitat provided for viable bighorn sheep populations may only be effective in the immediate future. Extensive levels of monitoring for the presence of bighorn sheep would be required to ensure tribal trust responsibilities. For bighorn sheep as a Sensitive Species, this alternative will impact individuals or habitat with a consequence that the action may contribute to a trend toward Federal listing or cause a loss of viability to the populations or species.

### **ALTERNATIVE 7N**

Alternative 7N was developed using the updated quantitative risk analysis and landmarks, such as watershed divides, streams, roads, and allotment boundaries, to make implementation easier. This alternative was designed to remove most of the high risk areas and also add grazing areas of lower risk back in. This alternative addresses disease transmission from domestic sheep to bighorn sheep by determining 61,918 suitable acres as unsuitable for domestic sheep grazing and closing all trailing routes within the alternative area. This alternative affects rangeland resources by determining 61,918 suitable acres as unsuitable for domestic sheep grazing and 38,392 acres as suited. Tribal trust responsibilities may be met through monitoring for presence of bighorn sheep near active domestic sheep and goat allotments. Alternative 7N is compliant with the HCNRA Act. For bighorn sheep as a Sensitive Species, this alternative may impact individuals or habitat but will not likely contribute to a trend toward Federal listing or loss of viability to the populations or species.

### **ALTERNATIVE 7O**

Alternative 7O was developed using the updated quantitative risk analysis and landmarks, such as watershed divides, streams, roads, and allotment boundaries, to make implementation easier. This alternative was designed to remove all areas of major risk, keep allotments as intact as

possible, and reduce the amount of monitoring needed to minimal levels. This alternative addresses disease transmission from domestic sheep to bighorn sheep by determining 68,718 suitable acres as unsuitable for domestic sheep grazing and closing all trailing routes within the alternative area. This alternative affects rangeland resources by determining 68,718 suitable acres as unsuitable for domestic sheep grazing and 31,592 acres as suited. Tribal trust responsibilities may be met with thorough monitoring for presence of bighorn sheep near active domestic sheep and goat allotments. For bighorn sheep as a Sensitive Species, this alternative may impact individuals or habitat but will not likely contribute to a trend toward Federal listing or loss of viability to the populations or species.

## **ALTERNATIVE 7P**

Alternative 7P was developed using the updated quantitative risk analysis and landmarks, such as watershed divides, streams, roads, and allotment boundaries, to make implementation easier. This alternative was designed to keep many of the high risk areas as unsuited but add in areas that are of lower risk and to maximize bighorn sheep protection and maximize the amount of suitable range land. This alternative addresses disease transmission from domestic sheep to bighorn sheep by determining 54,204 suitable acres as unsuitable for domestic sheep grazing and closing all trailing routes within the alternative area. This alternative affects rangeland resources by determining 54,204 as unsuitable for domestic sheep grazing and 46,106 as suited. Habitat provided for viable populations of bighorns may only be effective in the immediate future. Therefore, levels of monitoring for the presence of bighorn sheep near active domestic sheep and goat allotments would be required to meet tribal trust responsibilities. Alternative 7P is compliant with the HCNRA Act. For bighorn sheep as a Sensitive Species, this alternative may impact individuals or habitat but will not likely contribute to a trend toward Federal listing or loss of viability to the populations or species.

*Part*

# *4 Findings Related to Laws and Authorities*

## **Findings Required by Law**

### **NATIONAL FOREST MANAGEMENT ACT (NFMA)**

The 1982 NFMA planning regulations provide direction for managing fish and wildlife habitat to maintain viable populations of existing native vertebrate species within the planning area (36 CFR §219.19 and §219.27(a)). “In order to insure that viable populations will be maintained, habitat must be provided to support at least, a minimum number of reproductive individuals and

that habitat must be well distributed so that those individuals can interact with others in the planning area” (36 CFR §219.19). “Planning area” is defined as the area of National Forest System land covered by a forest plan (36 CFR §219.3)

The FSEIS was written in response to direction from the Chief to analyze potential effects of the revised Forest Plan to bighorn sheep population viability commensurate with the concerns and questions raised in the appeal decision. Viability is generally expressed using two components—number of individuals and time—that can be used to describe population persistence over time. For the FSEIS viability analysis, we used 30–100 animals per herd persisting for 100 years.

For our viability analysis, we used outputs derived from three models (Source Habitat, Risk of Contact, and Disease) as a basis for assessing risk of contact between domestic and bighorn sheep and for estimating disease transmission between the species. Three factors were considered in assessing the potential impacts of disease on populations: 1) rate of contact between bighorn sheep and domestic sheep, 2) probability that contact will result in transmission of disease, and 3) effect of disease on the bighorn sheep population. Rate of contact was estimated by using a large telemetry data set to model core herd home ranges and bighorn sheep forays outside of home ranges relative to the availability of source habitats. Outputs of the core herd home range and foray analyses were used to determine the likely rate of bighorn sheep contact with domestic sheep and goat allotments.

Alternatives 7P, 7N, and 7O are consistent with the viability requirements of the regulations implementing NFMA. Alternatives 7P, 7N, and 7O protect 90 percent, 92 percent, and 94 percent of summer bighorn sheep source habitats, respectively. Annual rate of contact was calculated at 0.20, 0.12, and 0.08, respectively. Assuming a low probability of disease outbreak given contact (0.05 or 1 in 20), all populations have a high probability of persistence within the 100-year timeframe. When the probability of disease outbreak given contact is assumed to be moderate (0.25 or 1 in 4), several herds show moderate-to-high probabilities for persistence within the 100-year timeframe; however, under this scenario, the Upper Hells Canyon herd shows a moderate probability of extirpation. Assuming a high probability of disease outbreak given contact (1.0), the Little Salmon, Main Salmon South Fork, and Upper Hells Canyon herds have a high probability of extirpation within the 100-year timeframe.

For bighorn sheep, as a sensitive species, Alternatives 7P, 7N and 7O *May Impact Individuals or Habitat, But Will Not Likely Contribute to a Trend Towards Federal Listing or Loss of Viability to the Population or Species.*

## **ARE AMENDMENTS TO THE 2003 FOREST PLAN SIGNIFICANT OR NON-SIGNIFICANT?**

Under the National Forest Management Act (NFMA, 16 USC 1604(f)(4)), Forest plans may “be amended in any manner whatsoever after final adoption and after public notice, and, if such amendment would result in a significant change in such plan, in accordance with subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of the section.”

This amendment has been developed using the 1982 regulations. The 1982 regulations state, “Based on an analysis of the objectives, guidelines and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would result in a significant change to the plan.”

The Forest Service Handbook policy in place prior to 2000 (Forest Service Handbook 1909.12, section 5.32; effective date 8/3/1992) listed four factors to be evaluated when determining whether a proposed change to the forest plan is significant or not: (a) timing; (b) location and size; (c) goals, objectives and outputs; and (d) management prescriptions. I have evaluated the proposed amendment of the Payette National Forest Plan for the reasons described below:

- a. **Timing**—The timing factor examines at what point, over the course of the Forest Plan period, the plan is amended. Both the age of the underlying documents and the duration of the amendment are relevant considerations. The decision to revise the Payette Forest Plan was made in July 2003 and implemented in September 2003. The Regional Forester was instructed to supplement the FEIS and amend the Forest Plan in March 2005; only 2 years into the life of the plan. With bighorn sheep listed as a Sensitive Species in the Intermountain Region of the Forest Service and the downward trend of the species population in and around the Payette National Forest, I believe an immediate reduction in the risk of disease transmission to be important. Offering of bighorn sheep source habitat free of domestic sheep grazing will provide for viable populations. Management direction resulting from this amendment will be in place for the remainder planning period; 2013-2018 based on a 10-15 year plan life. Implementation of the amended plan for 3-8 years, while providing habitat for viable populations of bighorn sheep, will not result in a significant change in the short term.
- b. **Location and Size**—The key to location and size is context, or “the relationship of the affected area to the overall planning area”. The proposed range suitability determination for domestic sheep and goats covers approximately 75 percent of the Payette National Forest. The proposed management applies to existing Federal grazing permits as well as any proposed or new grazing activities. Rangeland suitability determination for this amendment does not make the decision for all livestock classes. For these reasons, I believe the Forest Plan amendment will not result in a significant change in the location of domestic sheep and goat grazing on the Forest.
- c. **Goals, Objectives, and Outputs**—The goals, objectives, and outputs factor involves a determination of “whether the change alters the long-term relationship between the level of goods and services in the overall planning area” (Forest Service Handbook 1909.12, section 5.32(c)). Application of this criterion requires an analysis of the overall Forest Plan and the various multiple-use resources, services, and outputs that may be affected by the amendment. This decision applies to existing, proposed, or new projects and will have a measurable effect on the rangeland resources, or suitable domestic sheep and goat grazing on the Payette National Forest but not to other classes of livestock. Other resources considered but deemed to not be measurably affected include: Air Quality and Smoke Management; Soil, Water, Riparian, and Aquatic; Botanical/Nonnative Plants; Recreation; Scenic Environment; Cultural Resources; Roads and Facilities; Inventoried Roadless Area; Wilderness and Recommended Wilderness; Fire Management; Threatened, Proposed and Candidate Species; Tribal Rights and Interests, and Wild and Scenic Rivers.

Resource sections of the Forest Plan that will change as a result of this amendment are Wildlife Resources, Non-Native Plants, and Rangeland Resources. New objectives, standards, and guidelines are added in these sections to help accomplish the desired

outcome of providing habitat for viable populations of bighorn sheep on the Payette National Forest.

- d. Management Prescriptions—The management prescription factor involves determining whether or not prescriptions need to change for specific situations or whether the desired future condition of the land and resources. No management prescriptions are changing as a result of this amendment.

### ***Finding of Significance***

On the basis of the information and analysis contained in the FSEIS and project record, it is my determination that adoption of this plan amendment decision does not constitute a significant amendment to the 2003 Forest Plan.

## **How Does the Amended Forest Plan Meet Other Laws and Authorities?**

### **HELLS CANYON NATIONAL RECREATION AREA (HCNRA) ACT**

The HCNRA Act (PL 94-199) was enacted on December 31, 1975, and provides direction for the “administration, protection, and development” of the HCNRA (16 USC §460gg-4). According to the Act, the HCNRA must be administered “in a manner compatible with” seven objectives, two of which are “protection and maintenance of fish and wildlife habitat,” and the continuation of existing uses, including grazing, “as are compatible with provisions of the Act.” Grazing is recognized as one of several “traditional and valid uses of the recreation area.” Management of Federal lands within HCNRA is also covered by implementing regulations (36 CFR §292, Subpart F). Direction for “grazing activities” provides that “Where domestic livestock grazing is incompatible with the protection, restoration, or maintenance of fish and wildlife or their habitats... the livestock use shall be modified as necessary to eliminate or avoid the incompatibility. In the event an incompatibility persists after the modification or modification is not feasible, the livestock use shall be terminated” (36 CFR §292.48(b)).

Alternatives 7N, 7O, and 7P eliminate domestic sheep grazing from National Forest System lands within the boundary of the HCNRA and within modeled bighorn sheep core herd home range. The contact model results indicate a 4 percent or less risk rating for each of the alternatives. This indicates mixing of the two species would occur once every 25 years or less, which is considered a low risk of disease transmission. Eliminating domestic sheep grazing in the HCNRA and surrounding areas is compatible with the HCNRA Act and its implementing regulations by providing for the protection, restoration, and maintenance of bighorn sheep and their habitat. All three alternatives are in compliance with the HCNRA Comprehensive Management Plan by maintaining a separation between bighorn and domestic sheep that is likely to keep the two species apart at current population levels.

### **NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

In addition to minor edits and corrections, a number of changes were made to the DSEIS in preparing the FSEIS. These changes were reflected in the release of the update to the DSEIS, which allowed for further comment and review by the public. Information disclosed in the FSEIS

falls within the scope of the analysis depicted in the update to the DSEIS and in most cases provides clarification and additional explanation.

## **CONSIDERATION OF SHORT-TERM USES AND LONG-TERM PRODUCTIVITY**

Short-term uses are those expected to occur for the remainder of the planning period, including permitted domestic sheep and goat grazing. Although these uses are not authorized by the Forest Plan or the amendment, the potential for these uses through identification of areas suited for domestic sheep and goat grazing, and Forest Plan goals allow for its consideration.

Long-term productivity refers to the capability of the land to provide resource outputs for a period of time beyond the planning period. Adherence to minimum management requirements established by Federal regulation (36 CFR §219.27) maintain long-term productivity of the land. Minimum management requirements are found in the Forest-wide and management area standard and guidelines and are met under any alternative. The requirements ensure that the long-term productivity of the land is not impaired by short-term use.

Monitoring and evaluation found in Appendix O of the FSEIS for the Forest Plan Amendment and in Chapter IV of the revised Forest Plan apply to all alternatives. Monitoring ensures that long-term productivity of the land is maintained or improved. If monitoring and evaluation indicate that Forest Plan standards and guidelines are inadequate to protect long-term productivity of the land, then the Forest Plan will be readjusted to provide for more protection or fewer impacts.

## **UNAVOIDABLE ADVERSE EFFECTS**

The proposed Forest Plan amendment does not produce unavoidable adverse environmental effects because it does not directly authorize management activities that result in such effects. The amended Forest Plan would, however, establish management emphasis and direction for activities that may occur on the Payette during the planning period.

## **ENVIRONMENTALLY PREFERABLE ALTERNATIVE**

Regulations implementing the NEPA require agencies to specify the alternative(s) considered to be environmentally preferable (40 CFR §1505.2(b)). Forest Service policy further defines this as the alternative that best meets the goals of Section 101 of the NEPA. In determining the environmentally preferred alternative, I referred to the goals of Section 101 and determined that Alternative 7E is the Environmentally Preferred Alternative since it will cause “the least damage to the biological and physical environment.” It provides the greatest protection to bighorn sheep habitats and the highest probabilities of persistence for all bighorn sheep populations.

Alternative 7E is the only alternative that prevents interspecies contact. For bighorn sheep, as a Sensitive Species, Alternative 7E would have a beneficial impact. However, of all the action alternatives, Alternative 7O protects the most source habitat, retains the least suited rangeland for domestic sheep, has low contacts per year, and provides adequate habitat for viability of the species.

## **ENVIRONMENTAL JUSTICE (EXECUTIVE ORDER 12898)**

Executive Order 12898 (59 Fed. Register 7629, 1994) directs Federal agencies to identify and address any disproportionately high and adverse human health or environmental effects on

minority populations and low-income populations. I have determined from the analysis disclosed in the FSEIS, that the Forest Plan as amended complies with Executive Order 12898 (FSEIS, Chapter 3, 3-141).

### **ENDANGERED SPECIES ACT (ESA)**

The ESA creates an affirmative obligation “that all Federal departments and agencies shall seek to conserve endangered and threatened species of fish, wildlife, and plants.” This obligation is further clarified in a National Interagency Memorandum of Agreement (dated August 30, 2000) which states our shared mission to “enhance conservation of imperiled species while delivering appropriate goods and services provided by the lands and resources.”

Based on the biological evaluation (FSEIS, Appendix K), informal consultation with U.S. Department of Interior, Fish and Wildlife Service and U.S. Department of Commerce, National Marine Fisheries Service, I have determined that this decision does not change the determinations made for the Forest Plan 2003. Therefore, I have determined that there is no need to reinitiate consultation on the Forest Plan in light of changes proposed in this amendment.

### **MIGRATORY BIRD TREATY ACT/EXECUTIVE ORDER 13186**

The Forest Plan as amended is a programmatic action and as such does not authorize any site-specific activity. It includes direction to provide source habitat for viable populations of bighorn sheep on the Payette National Forest through rangeland suitability determinations for domestic sheep and goat grazing. In reviewing the migratory bird information in Appendix F of the FSEIS, I have determined that management direction and monitoring included in the Forest Plan amendment complies with the Migratory Bird Act and Executive Order 13186.

### **CLEAN AIR ACT**

The Forest Plan as amended would result in no measureable increase in the effects to air quality and smoke management which were disclosed in the 2003 Forest Plan FEIS. The ROD for the 2003 Forest Plan concludes that Forest-wide direction will ensure that air quality complies with the Clean Air Act and related state requirements. Because the 2003 Forest Plan complies with the Clean Air Act and the amendment result in no measurable effects, the Forest Plan as amended complies with the Clean Air Act.

### **HISTORIC PRESERVATION ACT (NHPA)**

The Forest Plan as amended would result in no changes to the cultural resources as disclosed in the FEIS. Because cultural resource management is explicitly defined by law, regulation and policy, and these same laws, regulations and policies will be in effect under the Forest Plan as amended, my decision, like the 2003 Forest Plan decision, complies with the NHPA.

### **CLEAN WATER ACT**

Because the 2003 Forest Plan decision complies with the Clean Water Act and my decision will result in no change in effects to the applicable resources, the Forest Plan as amended satisfies the Clean Water act.

## **ENERGY REQUIREMENT AND CONSERVATION POTENTIAL**

The Forest Plan is a programmatic action that does not authorize site-specific activities. However, energy consumption will vary slightly by alternative due to the monitoring requirements. Combining trips to the field or carpooling take advantage of opportunities to conserve energy consumption to the extent practicable.

## **INVASIVE SPECIES (EXECUTIVE ORDER 13112)**

Executive Order 13112 on Invasive Species directs that Federal agencies should not authorize any activities that would increase the spread of invasive species. The Forest Plan and the amendment do not authorize any activities that would increase the spread of invasive species. However, in the non-native plant section of the amendment, Appendix O there is new direction limiting the use of goats to control invasive plants when in the core herd home range of bighorn sheep herds. The amendment does not alter any effects on native plants as disclosed in the 2003 FEIS and as such, as supplemented complies with executive order 13112.

## **PRIME FARMLAND, RANGELAND AND FOREST LAND**

The Forest Plan complies with the Secretary of Agriculture's Memorandum 1827, which requires conservation of prime farmland, rangeland, and forestland. The amendment provides for advances in science and technology to allow for adaptive management strategies to be considered.

## **EQUAL EMPLOYMENT OPPORTUNITY, EFFECTS ON MINORITIES, WOMEN**

The Forest Plan will not have a disproportionate impact in employment opportunities for any minority or low-income communities. I have determined that the Forest Plan, as amended, will not differentially affect civil rights of any citizens, including women and minorities.

## **WETLANDS AND FLOODPLAINS**

The Forest Plan is a programmatic action and does not authorize any site-specific activity. The Forest Plan as amended will result in no change in effects to these resources over those anticipated in the FEIS. Therefore, I have determined that the Forest Plan, as amended complies with all relevant laws and executive orders regarding wetlands and floodplains.

## **FACILITATION OF HUNTING HERITAGE AND WESTERN CONSERVATION**

Executive Order 12443 directs the appropriate Federal agencies to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat. Because my decision is designed to provide adequate habitat for viable populations of bighorn sheep on the Payette, it complies with Executive Order 12443.

## **OTHER POLICIES**

The existing body of national direction for managing National Forests remains in effect. Standards and guidelines included in the Forest Plan provide direction specific to the Payette National Forest. The Forest Plan as amended contributes to the Forest Service Strategic Plan for FY 2007-2012.

# 5 Conclusion

## Implementation

Implementation of this ROD will occur after the 30<sup>th</sup> calendar day following publication of the legal notice of decision in the Newspaper of record, *The Idaho Statesman*. This will also be 30 calendar days after the Notice of Availability of the Record of Decision and Final SEIS is published in the *Federal Register* (36 CFR 219.10 (c)(1)). Decisions on site specific projects are not made in the Forest Plan as amended. Those decisions will be made with site-specific analysis and appropriate documentation in compliance with NEPA.

## TRANSITION TO THE FOREST PLAN AS AMENDED

Forest Plan direction as amended will apply to all projects that have decisions made on or after the implementation of this ROD.

There are many management actions that have decisions made before the implementation date of this ROD. The projected effects of these actions are part of the baseline analysis documented in the FSEIS and Biological Evaluation.

The NFMA requires that “permits, contracts, and other instruments for use and occupancy” of National Forest System lands be “considered” with the Forest Plan (16 U.S.C. 1604(i)). In the context of a Forest Plan, NFMA specifically conditions the requirement in three ways:

- These documents must be reviewed only when necessary
- These documents must be revised as soon as practicable
- Any revisions a subject to valid existing rights.

Grazing permits are generally issued for a 10-year term. Because this Forest Plan amendment specifically addresses rangeland suitability for domestic sheep and goat grazing, action will be necessary to bring the Term Grazing Permits into compliance with this phase of the Forest Plan amendment process.

## Administrative Appeals of My Decision

My decision is subject to the optional appeal procedures available during the planning rule transition period pursuant to 36 CFR 219.35(b) provisions of the 2000 planning rule (65 FR 67514) and 2001 interpretive rule (66FR 1864). Consistent with Section 8(a)(2) of these procedures, a written notice of appeal must be filed with the Intermountain Regional Forester within 45 days of the date that the legal notice of this decision appears in *The Idaho Statesman* newspaper.

Only individuals or organizations that submitted comments or otherwise expressed interest in the project during the comment periods may appeal. Appeals must be postmarked or received by the Appeal Deciding Officer within 45 days of the publication of the legal notice of decision in *The*

*Idaho Statesman* newspaper. This date is the exclusive means for calculating the time to file an appeal. Timeframe information from other sources should not be relied upon. Incorporation of documents by reference is not allowed.

Appeals must be sent to the Appeal Deciding Officer, Harv Forsgren, Intermountain Regional Forester. Appeals can be mailed, faxed, e-mailed, or hand delivered to:

Intermountain Regional Forester

USDA-Forest Service

324 25<sup>th</sup> Street

Ogden, UT 8401

Fax: (801) 625-5277

E-mail: [appeals-intermtn-regional-office@fs.fed.us](mailto:appeals-intermtn-regional-office@fs.fed.us)

E-mailed appeals must be submitted in rich text format (rtf), Word (doc), or portable document format (pdf) and must include the project name in the subject line. Appeals that are hand delivered can be made to the address above during regular business hours of 8:00 A.M. to 4:30 P.M. Monday through Friday.

A copy of the appeal must simultaneously be sent to the deciding officer:

Forest Supervisor, Payette National Forest

USDA-Forest Service

800 W. Lakeside Ave.

McCall, ID 83638

Any notice of appeal must be fully consistent with Section 9 of the optional appeal procedures available during the planning rule transition period pursuant to 36 CFR 219.35(b) provisions of the 2000 planning rule (65 FR 67514) and 2001 interpretive rule (66FR 1864). At a minimum, a written notice of appeal filed with the reviewing officer must:

1. State that the document is a notice of appeal filed pursuant to 36 CFR 219.14(b) (2);
2. List the name, address, and telephone number of the appellant;
3. Identify the decision about which the requestor objects;
4. Identify the document in which the decision is contained by title and subject, date of the decision, and name and title of the deciding officer;
5. Identify specifically that portion of the decision or decision document to which the requester objects;
6. State the reasons for objecting, including issues of fact, law, regulation, or policy, and, if applicable, specifically how the decision violates law, regulation, or policy; and
7. Identify the specific change(s) in the decision that the appellant seeks.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7895, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991]



