



## United States Department of the Interior

Fish and Wildlife Service  
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**In reply, refer to:**

NMESO/SE

02ENNM00-2012-F-0112-R001/02E00000-2012-F-0006-R001

December 16, 2019

Mr. Adam Mendonca, Forest Supervisor  
Gila National Forest  
Supervisor's Office  
3005 East Camino del Bosque  
Silver City, NM 88061-7863

RE: Reinitiation of Continued Implementation of the Land and Resource Management Plan (LRMP) for the Gila National Forest

Dear Mr. Mendonca:

This document transmits our biological opinion (BO) for the reinitiation of formal consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. § 1531-1544), as amended (ESA or Act), for the Gila National Forest's (NF) Land and Resource Management Plan (LRMP). The U.S. Fish and Wildlife Service (Service) and Forest Service are conducting this reinitiation in response to a September 12, 2019, court order in *WildEarth Guardians v. U.S. Fish and Wildlife Service*, 4:13-CV-00151-RCC. In response to this court order, as well as updated information regarding subjects in the BO, and current regulation and policy, we are updating the Status of the Species, Environmental Baseline, Effects of the Action, Cumulative Effects, and Incidental Take Statement sections of the March 30, 2012, Gila NF LRMP BO (02ENNM00-2012-F-0112 or 02E00000-2012-F-0006). We received your updated Biological Assessment (BA) on November 19, 2019. We are consulting on effects to the threatened Mexican spotted owl (*Strix occidentalis lucida*) (spotted owl or owl) and its critical habitat from the Forest Services' continued implementation of the Gila NF's LRMP.

Updates to the regulations governing interagency consultation (50 CFR part 402) became effective on October 28, 2019 [84 FR 44976]. This consultation was pending at that time, and we are applying the updated regulations to the consultation. As the preamble to the final rule adopting the regulations noted, "[t]his final rule does not lower or raise the bar on section 7 consultations, and it does not alter what is required or analyzed during a consultation. Instead, it improves clarity and consistency, streamlines consultations, and codifies existing practice." We have reviewed the information and analyses relied upon to complete this BO in light of the updated regulations and conclude the opinion is fully consistent with the updated regulations.

This BO replaces the March 30, 2012, Gila NF LRMP BO (02ENNM00-2012-F-0010) for the Mexican spotted owl. We based this BO on information provided in the November 19, 2019, BA; the April 6, 2011, BA; past LRMP BOs; the final Recovery Plan for the Mexican spotted owl, First Revision (Service 2012); meetings, conversations and electronic correspondence with your staff; and, other sources of information found in the administrative record supporting this BO. Literature cited in this BO is not a complete bibliography of all literature available on the Mexican spotted owl or on other subjects considered in this opinion. A complete administrative record of this consultation is on file at this office. The most recent 2012 LRMP BO and incidental take statement, as they relate to the Mexican spotted owl, are hereby withdrawn and no longer have any force and effect.

### **Consultation History**

- September 12, 2019: In response to litigation (*i.e.*, court order 4:13-CV-00151-RCC), the Service began to re-analyze the effects of the proposed action and our analysis of the proposed actions' effect on owl recovery to address the Court's findings.
- November 19, 2019: We received the updated BA from the Forest Service.
- December 5, 2019: We sent a draft BO to the Forest Service for your review.
- December 8, 2019: We received your comments on the draft BO and incorporated comments.

## **BIOLOGICAL OPINION**

### **DESCRIPTION OF THE PROPOSED ACTION**

The proposed action we are analyzing is the continued implementation of the Gila NF's 1987 LRMP (including the 1996 Region-wide Amendment). Also included in this BA is an analysis of those Standards & Guidelines (S&Gs) that the Forest Service added through amendments to the LRMPs since the 2011 LRMP BA (See Appendix 4 in the 2011 BA for a complete list of S&Gs analyzed in the 2012 BO). This consultation will be in place until the Gila NF finishes revising their LRMP, at which time they will consult with the Service. The target date for the revised LRMP is early 2021 to fall of 2021.

The LRMP directs how the Gila NF will carry out current and future activities in the following Programs: Engineering; Fire and Aviation Management; Forestry/Forest Health; Lands and Minerals; Rangeland Management; Recreation, Heritage and Wilderness; Watershed Management; and Wildlife, Fish, and Rare Plants (WFRP). We discuss the S&Gs related to these Programs, in the Effects of the Action section of this BO.

The LRMPs and the 1996 Regional LRMP Amendment described long-range management strategies for the NFs and National Grasslands (NG) in the U.S. Forest Service Southwestern Region. They provide a programmatic framework for future activities and emphasize the application of certain S&Gs in the undertaking of those activities on the land. The LRMPs do not make site-specific decisions about exactly how, when, and where the Forest Service will carry out these activities. However, all site-specific activities must conform to the programmatic framework set up in the LRMP (S&Gs) and they must meet site-specific National Environmental Policy Act (NEPA) and ESA requirements.

This consultation on the Gila NF LRMP does not eliminate the requirement for site-specific BAs and the need for site-specific informal or formal section 7(a)(2) consultation with the Service for individual projects implemented under the LRMPs. Furthermore, it should be noted that amendment (*i.e.*, deleting/changing S&Gs) for a site-specific project is allowed and can and does occur, although rarely. In this situation, we would consider the action outside of the scope of this consultation and it would require its own site-specific section 7(a)(2) consultation to address the effects of the specific proposed action implemented under a project specific amendment to the NF LRMP. Furthermore, we do not include wildfire and wildland fire use (managed fire) in this BO, as suppression actions associated with these activities we would address under separate emergency consultations.

### **Conservation Measures**

- The Gila NF conducts Service protocol Mexican spotted owl surveys prior to the implementation of projects. Permitted biologists conduct these surveys during the owl-breeding season in order to locate owls, determine breeding status, and locate nests/roosts prior to project implementation. These surveys address project-level effects to owls and ensure protection of individual owls. If owl detections meet the definition of an owl site

per the Recovery Plan (Service 2012), then the Forest Service would establish a Protected Activity Center (PAC) per Recovery Plan recommendations.

- The Gila NF, along with all the other forests in the Region, incorporated most of the management recommendations from the 1995 Mexican Spotted Owl Recovery Plan. The forest has altered timber management to eliminate the greatest threat to the species. The recommendations also include treatments in and around spotted owl habitat to protect owls from the threat of high severity, stand-replacing wildfire. High-severity, stand-replacing wildfire is identified as the primary threat to the spotted owl in the Recovery Plan (Service 2012).
- The Gila NF has implemented or is implementing projects that will improve spotted owl habitat and aid in reducing the threat of stand-replacing wildfire. Many of these actions do not adversely affect spotted owls or designated critical habitat and are in unoccupied recovery habitat or surrounding lands to minimize project effects to spotted owls. The actions will contribute to the conservation of the species.

### **Action Area**

The action area is defined as all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action (50 CFR § 402.02). In delineating the action area, we evaluated the farthest-reaching physical, chemical, and biotic effects of the action on the environment.

The Gila NF is one of five NFs in New Mexico, occupying approximately 3.3 million acres, making it the sixth largest NF in the continental United States. The Gila NF lies in southern Catron, northern Grant, western Sierra and extreme northeastern Hidalgo counties in southwestern New Mexico. The Gila NF is adjacent to the Cibola NF in New Mexico and the Apache-Sitgreaves NFs in Arizona, as well as Bureau of Land Management, state, and privately owned lands. Twenty four percent of the Gila NF area is composed of the Gila, Aldo Leopold and Blue Range Wildernesses. The Gila NF has six ranger districts: Black Range, Glenwood, Quemado, Reserve, Silver City, and Wilderness. We define the Action Area for this BO as all lands that the Gila NF encompass, plus adjacent lands that the proposed action may affect.

The Gila NF contains 12 mountain ranges and an elevational range of 4,160 to 10,770 feet. The Gila NF is predominantly comprised of relatively dry ponderosa pine and mixed conifer forests, spruce-fir forest, piñon-juniper woodlands, and semi-desert grassland. For the Mexican spotted owl, the most important habitat on the Gila NF are the pine-oak and mixed conifer forests, which provide suitable nesting, roosting, foraging, and dispersal habitat, followed by the pure ponderosa pine forest, which the owl may use more for foraging and dispersal.

## STATUS OF THE SPECIES AND CRITICAL HABITAT

### Mexican spotted owl

In 1993, the Service listed the Mexican spotted owl (hereafter, referred to as Mexican spotted owl, spotted owl, and owl) as threatened under the Act (58 FR 14248) and designated critical habitat in 2004 (69 FR 53182). The Service appointed the Mexican spotted owl Recovery Team in 1993 (Service 1993), which produced the Recovery Plan for the Mexican spotted owl in 1995 (Service 1995). The Service released the final Mexican spotted owl Recovery Plan, First Revision (Recovery Plan) in December 2012 (Service 2012).

#### Description and Life History

The Mexican spotted owl is a medium-sized owl without ear tufts. Spotted owls have mottled feathers with irregular white spots on a brown abdomen, back, and head. Mexican spotted owls nest in caves, in stick nest built by other birds, on debris platforms in trees, and in tree cavities. Mexican spotted owls have distinct annual breeding periods, with courtship beginning in March. Owls typically lay eggs in late March or early April, with eggs hatching approximately 30 days later. Nestling owls generally fledge in early to mid-June. A detailed account of the taxonomy, biology, and reproductive characteristics of the Mexican spotted owl is found in the Final Rule listing the owl as a threatened species (58 FR 14248), the original Recovery Plan (Service 1995), and in the revised Recovery Plan (Service 2012). We include the information provided in those documents by reference.

#### Habitat Requirements and Distribution

The spotted owl occurs in forested mountains and canyonlands throughout the southwestern United States and Mexico (Figure B.1 in Service 2012). The owl ranges from Utah, Colorado, Arizona, New Mexico, and the western portions of Texas south into several states in Mexico. Although the owl's entire range covers a broad area of the southwestern United States and Mexico, it does not occur uniformly throughout its range. Instead, the owl occurs in disjunct localities that correspond to isolated forested mountain systems, canyons, and in some cases steep, rocky canyon lands. Known owl locations in forested habitats indicate that the species has an affinity for older, uneven-aged forests, and the species inhabits a physically diverse landscape in the southwestern United States and Mexico.

In the Recovery Plan (Service 2012), the Recovery Team defined specific forest cover types (mixed conifer and pine-oak) and rocky-canyon habitats that provide nesting, roosting, and foraging habitat for Mexican spotted owls (Service 2012). The availability of habitat used for nesting/roosting of Mexican spotted owls in forested and rocky-canyon environments limits owl distribution (meaning the nesting and roosting habitat is a limiting factor for spotted owls). Habitat used for nesting/roosting also provides adequate conditions for foraging and dispersal activities. Thus, sustaining nesting/roosting habitat meets other survival and recovery requirements. Based on the specific forest cover type and rocky-canyon definitions, the Recovery Plan (Service 2012) focuses management recommendations on two categories of owl

habitat: PACs and “recovery habitat” (the Recovery Team previously called recovery habitat “restricted habitat” in the 1995 Recovery Plan; the terms are synonymous).

PACs are intended to sustain and enhance areas that are presently, recently, or historically occupied by breeding Mexican spotted owls (Service 2012). Minimum PAC area is 600 acres and is based on the median size of the adaptive kernel contour enclosing 75% of the foraging locations for 14 pairs of radio-marked owls (595 ac) (Ganey and Dick 1995). Thus, PACS protect activity centers used by owls rather than entire home ranges. Consequently, there is no upper limit for PAC sizes; managers may create larger PACs if appropriate. The Service and land managers establish PACs around owl sites (as defined in the Recovery Plan). All PACS should contain a designated 100-acre nest/roost core area, designed to offer additional protection to the nest or primary roost areas. The Recovery Plan (Service 2012) emphasizes protection of habitat used for nesting and roosting within PACs because the owls are most selective for such habitat (Ganey and Dick 1995, Service 2012 [Appendix B]) and these forest conditions are most limited across the landscape. These areas also provide resources to meet other life-history needs of the owl. Therefore, designating PACs protects and maintains occupied owl habitat.

Recovery habitat occurs in forest types and rocky canyons used by owls for roosting, foraging, dispersal and other life history needs; however, recovery habitat occurs outside of PACs. Recovery habitat is intended to: 1) provide protection for areas that may be used by owls; 2) foster creation of nest/roost habitat; 3) simultaneously provide managers with greater management flexibility than is allowed in PACs; and, 4) facilitate development and testing of management strategies that could be applied in PACs (Service 2012). Areas not classified as either PACs or recovery habitats, are classified as “Other Forest and Woodland Types” and “Other Riparian Forest Types” (Service 2012). These areas, which nesting owls rarely use, but owls may use for foraging and dispersal, generally include pure ponderosa pine forest, pinyon-juniper woodland, or other habitat types. Given their relatively limited importance to nesting owls, the Recovery Plan (Service 2012) contains no owl-specific recommendations in “Other Forest and Woodland Types” and “Other Riparian Forest Types”.

In addition to this natural variability in habitat influencing owl distribution, human activities also vary across the owl’s range. The combination of natural habitat variability, human influences on owls, international boundaries, and logistics of implementation of the Recovery Plan necessitates subdivision of the owl’s range into smaller management areas. The 1995 Recovery Plan subdivided the owl’s range into 11 “Recovery Units” (RUs): six in the United States and five in Mexico. In the revision of the Recovery Plan (Service 2012), we renamed RUs as “Ecological Management Units” (EMUs) to be in accord with current Service guidelines. The Recovery Team divided the owl’s range within the United States into five EMUs: Colorado Plateau (CP), Southern Rocky Mountains (SRM), Upper Gila Mountains (UGM), Basin and Range-West (BRW), and Basin and Range-East (BRE) (Service 2012). Within Mexico, the revised Recovery Plan delineated five EMUs: Sierra Madre Occidental Norte, Sierra Madre Occidental Sur, Sierra Madre Oriental Norte, Sierra Madre Oriental Sur, and Eje Neovolcanico.

## Threats

The Service cited two primary reasons for the original listing of the Mexican spotted owl in 1993: (1) the historical alteration of its habitat as the result of timber-management practices; and, (2) the threat of these practices continuing. We also identified the danger of stand-replacing fire as a looming threat at that time. Since publication of the original Recovery Plan (Service 1995), the Service and Recovery Team acquired new information on the biology, threats, and habitat needs of the owl. Threats to its population in the U.S. (but likely not in Mexico) have transitioned from commercial-based timber harvest to the risk of stand-replacing wildland fire (Service 2012). Recent forest management has moved away from a commodity focus, such as commercial-based timber harvest, and now emphasizes sustainable ecological function and a return toward pre-settlement fire regimes, both of which have potential to benefit the spotted owl. However, as stated in the revised Recovery Plan (Service 2012), there is much uncertainty regarding thinning and burning treatment effects and the risks to owl habitat with or without forest treatment as well.

Southwestern forests have experienced larger and more severe wildland fires from 1995 to the present, than prior to 1995 (Westerling 2016). Climate variability combined with unhealthy forest conditions (*i.e.*, too many trees; high levels of insects and disease; excessive fuel loads; etc.) also synergistically result in increased negative effects to habitat from fire (Fulé *et al.* 2004, Littell *et al.* 2009). The intensification of natural drought cycles and the ensuing stress placed upon overstocked forested habitats could result in even larger and more severe fires in owl habitat (Jones *et al.* 2016, Ganey *et al.* 2017). Currently, high-severity, stand-replacing fires are influencing the persistence of ponderosa pine and mixed conifer forest types in Arizona and New Mexico. Wildland fire is likely the greatest threat to the Mexican spotted owl within the action area and fire severity and size have been increasing (Service 2012). Landscape level wildland fires, such as the Rodeo-Chediski Fire (2002), the Wallow Fire (2011), and the Whitewater-Baldy Complex (2012) have resulted in the loss of tens of thousands of acres of occupied and potential nest/roost habitat across significant portions of the owl's range. Although owls will forage in severely burned areas, habitat is often lacking for nesting and roosting in these areas, particularly when high severity fire affects large patches of habitat (Jones *et al.* 2016).

Fuels reduction treatments, though critical to reducing the risk of severe wildland fire, can have short-term adverse effects to owls through habitat modification and disturbance. As the human population grows in the southwestern United States, small communities within and adjacent to wildlands are being developed. This trend may have detrimental effects to spotted owls by further fragmenting habitat and increasing disturbance during the breeding season.

Global climate variability may also be a threat to the owl. Changing climate conditions may interact with fire, management actions, and other factors discussed above, to increase affects to owl habitat. Studies have shown that since 1950, the snowmelt season in some watersheds of the western U.S. has advanced by about 10 days (Dettinger and Cayan 1995, Dettinger and Diaz 2000, Stewart *et al.* 2004). Researchers think such changes in the timing and amount of snowmelt are signals of climate-related change in high elevations (Smith *et al.* 2000, Reiners *et al.* 2003). The effect of climate change is the intensification of natural drought cycles and the ensuing stress placed upon high-elevation montane habitats (IPCC 2007, Cook *et al.* 2004,

Breshears *et al.* 2005, and Mueller *et al.* 2005). The increased stress put on these habitats is likely to result in long-term changes to vegetation, and to invertebrate and vertebrate populations within coniferous forests and canyon habitats that affect ecosystem function and processes.

Historical and current anthropogenic uses of Mexican spotted owl habitat include both domestic and wild ungulate grazing, recreation, fuels reduction treatments, resource extraction (*e.g.*, timber, oil, gas), and development. These activities have the potential to reduce the quality of owl nesting, roosting, and foraging habitat, and may cause disturbance during the breeding season. Livestock and wild ungulate grazing is prevalent throughout the range of the owl and can have an adverse effect on the availability of grass cover for prey species. Recreation effects are increasing throughout the Southwest, especially in meadow and riparian areas. There is anecdotal information and research that indicates that owls in heavily used recreation areas are much more erratic in their movement patterns and behavior.

Several fatality factors have been identified as particularly detrimental to the Mexican spotted owl, including predation, starvation, accidents, disease, and parasites. For example, West Nile Virus also has the potential to effect the owl. We have not documented the virus in spotted owls in Arizona, New Mexico, and Colorado, but preliminary information suggests that owls may be highly vulnerable to this disease (Courtney *et al.* 2004). Unfortunately, due to the secretive nature of spotted owls and the lack of intensive monitoring of birds that we have banded, we will most likely not know when owls contract the disease or the extent of its effect to the owl range-wide.

#### Population Status and Process of Delisting

The recovery objective stated in the Recovery Plan (Service 2012) is “to support the Mexican spotted owl throughout its range into the foreseeable future, and to maintain the habitat conditions necessary to provide roosting and nesting habitat for the Mexican spotted owl.” In addition, the Service and Recovery Team developed two recovery (or delisting) criteria (addressing listing factors A, C, and E) that we must meet before the owl can be delisted. These criteria are:

1. Owl occupancy rates must show a stable or increasing trend after 10 years of monitoring.
2. Indicators of habitat conditions (key habitat variables) are stable or improving for 10 years in roosting and nesting habitat.

Once the Service can show that we have met these two criteria across the range of the owl, the Service would then review the regulations and known distribution (the spatial arrangement across its range) of Mexican spotted owls to determine if the delisting process should proceed. At this time, we cannot describe the future desired distribution of owls across their range because changes in the species’ range may occur due to factors such as climate change, which could result in shifts in the owl population to the northern portion of its range. In addition to meeting the delisting criteria, to delist the Mexican spotted owl, the Service must be able to demonstrate, using the best scientific information, that Federal, state, and tribal land managers have moderated and/or regulated anthropogenic and non-anthropogenic threats to the Mexican spotted owl

(Service 2012). We derive the best scientific information from research, management experiments, and monitoring conducted at the appropriate scales and intensity. The Service must also conduct an analysis of the five listing factors to verify that threat levels are acceptable for likely persistence of owl populations into the future.

In the Recovery Plan (Service 2012), the Recovery Team identified two types of monitoring recommended for the Mexican spotted owl. The first is surveying for individual owls by using the Service Mexican spotted owl survey protocol (Service 2012 [Appendix D]). These are surveys conducted to locate individual owls (which allows Service and land managers to designate PACs) and to monitor the status of owls associated with known PACs (to locate nests and roosts, and determine their reproductive status in a given year). Mexican spotted owl surveys conducted since the 1995 Recovery Plan have increased the Service's knowledge of owl distribution, but not necessarily of owl abundance. Population estimates, based upon owl surveys, recorded 758 owl sites from 1990 to 1993, and 1,222 owl sites from 1990 to 2004 in the United States. The Recovery Plan (Service 2012) lists 1,324 known owl sites in the United States. An owl site is an area used by a single owl or a pair of adult or subadult owls for nesting, roosting, or foraging. The increase in number of known owl sites is mainly a product of agencies completing new owl surveys within previously unsurveyed areas (*e.g.*, several National Parks within southern Utah, Guadalupe National Park in West Texas; Guadalupe Mountains in southeastern New Mexico and West Texas; Dinosaur National Monument in Colorado; and the Cibola and Gila NFs in New Mexico). Thus, we cannot infer an increase in abundance in the species range-wide from these data (Service 2012). However, the Recovery Team and Service do assume that an increase in the number of occupied sites is a positive indicator regarding owl abundance.

In addition to this survey protocol for individual owls, the Recovery Team also developed and recommended a methodology for conducting Mexican spotted owl population monitoring, using an occupancy (presence/absence) model to determine the population trend (stable, increasing, decreasing) of owls range-wide (Service 2012 [Appendix E]). The Service is currently working with the Southwestern Region of the Forest Service to conduct the population monitoring recommended in the Recovery Plan (Service 2012 [Appendix E]) on National Forest System (NFS) lands in Arizona and New Mexico. The effort to conduct this work has occurred during the 2014-2019 breeding seasons (six years). The Recovery Team, Forest Service, Service, and the Bird Conservancy of the Rockies (BCR, contractor) are continuing to collect data on NFS lands. Of the 200 quadrats sampled on NFS lands in Arizona and New Mexico, 47 are located on the Gila NF. The Service is developing a strategy for incorporating additional lands (*e.g.*, National Park Service, Bureau of Land Management, and Department of Defense) into the monitoring. It is important to state that delisting criteria in the Recovery Plan (Service 2012) require that monitoring occur across the range of the owl, not just across an individual land management entity (*e.g.*, must include lands managed by all entities, *i.e.*, not just NFS lands). Currently, based on the work conducted by the Forest Service and BCR, we have further developed the process for conducting rangewide population monitoring as described in Appendix E of the Recovery Plan (Service 2012).

It is important to note that the entire range of Mexican spotted owls covers area in five U.S. states (Arizona, Colorado, New Mexico, Texas, and Utah; Table 1) and a large area of Mexico.

Within the United States, Region 3 (Southwestern) NFS lands are located in Arizona and New Mexico, which is only a portion of the range of the Mexican spotted owl. Occupancy monitoring conducted on NFs in Region 3 alone may not allow the Service to meet rangewide-delisting criteria, but it will allow the Service and Forest Service to assess population trends on Region 3 NFS lands in Arizona and New Mexico. The spatial scale at which this monitoring is occurring allows for interpretation of owl population trends for all Region 3 NFS lands. However, we (BCR, the Forest Service and the Service) did not design the current NFS occupancy sampling scheme to scale down to monitor owl occupancy trends on any individual NF within the Southwestern Region. We did not design it to meet this smaller scale objective because the objective is to develop a trend for all NFS lands in Region 3, not for each individual forest.

**Table 1.** Land management area by Ecological Management Unit (EMU) in the United States for the Mexican spotted owl (Service 2012). Not all acres within an EMU meet the definition of Mexican spotted owl habitat.

<b>Land Management Authority</b>	<b>BRE (Acres)</b>	<b>BRW (Acres)</b>	<b>CP (Acres)</b>	<b>SRM (Acres)</b>	<b>UGM (Acres)</b>
<i>Federal Lands</i>					
Bureau of Land Management	7,175,282.5	3,659,160	24,785,929.3	4,255,136.0	322,758.8
Forest Service	1,431,950.2	5,580,168.5	8,213,268.5	15,366,720.6	8,699,145.4
National Park Service	277,713.8	79,014.9	4,462,160.5	421,809.6	42,427.4
<b>Total Federal</b>	<b>8,884,946.5</b>	<b>9,318,343.5</b>	<b>37,461,358.3</b>	<b>20,043,666.2</b>	<b>9,064,331.5</b>
<i>State Lands</i>					
Arizona	0	5,241,674.7	2,407,042.0	0	47,039.7
Colorado	0	0	60,664.5	758,348.2	0
New Mexico	3,239,860.6	550,383.4	736,495.1	690,189.9	503,160.6
Utah	0	0	2,554,154.6	0	0
<b>Total State</b>	<b>3,239,860.6</b>	<b>5,792,058.1</b>	<b>5,758,356.3</b>	<b>1,448,538.1</b>	<b>550,200.3</b>
<i>Tribal Lands</i>	995,042.8	1,613,903.4	21,620,638.1	1,404,034.5	2,321,911.6
<i>Private Lands</i>	9,596,716.6	6,429,327.4	15,733,238.6	16,453,866.3	1,569,133.5
<i>Other</i>	2,909,784.5	239,686.5	336,922.0	552,410.7	29,283.8
<b>TOTAL</b>	<b>25,626,350.9</b>	<b>23,393,318.9</b>	<b>80,910,513.4</b>	<b>39,902,515.9</b>	<b>13,534,860.7</b>

### **Mexican spotted owl Critical Habitat**

The Service designated critical habitat for the Mexican spotted owl in 2004 on approximately 8.6 million acres (3.5 million hectares) of Federal lands in Arizona, Colorado, New Mexico, and Utah (69 FR 53182). Critical habitat includes only those areas in designated critical habitat units (CHUs) that meet the definition of protected (PAC and steep slopes, as defined) and restricted (now called “recovery”) habitat (unoccupied owl foraging, dispersal, and future nest/roost habitat) as defined in the 1995 Recovery Plan (Service 1995). We determined the primary constituent elements (PCEs) for owl critical habitat from studies of their habitat requirements and information provided in the Recovery Plan (Service 1995). Since owl habitat can include both canyon and forested areas, we identified PCEs for both habitat types.

The PCEs identified for the owl within mixed-conifer, pine-oak, and riparian forest types that provide for one or more of the owl's habitat needs for nesting, roosting, foraging, and dispersing are:

- A range of tree species, including mixed conifer, pine-oak, and riparian forest types, composed of different tree sizes reflecting different ages of trees, 30 to 45 percent of which are large trees with diameter at breast height (dbh) (4.5 feet above ground) of 12 inches or more;
- A shade canopy created by the tree branches covering 40 percent or more of the ground;
- Large, dead trees (snags) with a dbh of at least 12 inches.
- High volumes of fallen trees and other woody debris;
- A wide range of tree and plant species, including hardwoods; and,
- Adequate levels of residual plant cover to maintain fruits and seeds, and allow plant regeneration.

The PCEs listed above usually are present with increasing forest age, but their occurrence may vary by location, past forest management practices or natural disturbance events, forest-type productivity, and plant succession. These PCEs may occur in younger stands, especially when the stands contain remnant large trees or patches of large trees. Certain forest management practices may also enhance tree growth and mature stand characteristics where older, larger trees persist.

Steep-walled rocky canyonlands occur typically within the Colorado Plateau EMU, but also occur in other EMUs. Owls use canyon habitat for nesting, roosting, and foraging, and includes landscapes dominated by vertical-walled rocky cliffs within complex watersheds, including many tributary side canyons. These areas typically include parallel-walled canyons up to 1.2 miles (2 kilometers) in width (from rim to rim), with canyon reaches often 1.2 miles (2 kilometers) or greater, and with cool north-facing aspects. The PCEs related to canyon habitat include one or more of the following:

- Presence of water (often providing cooler and often higher humidity than the surrounding areas);
- Clumps or stringers of mixed-conifer, pine-oak, piñon-juniper, and/or riparian vegetation;
- Canyon walls containing crevices, ledges, or caves; and,
- High percent of ground litter and woody debris.

### **Mexican spotted owl and Critical Habitat status summary**

Overall, the status of the Mexican spotted owl and its designated critical habitat has not changed significantly since listing range-wide in the U.S. (which includes Utah, Colorado, Arizona, New Mexico, and extreme southwestern Texas). This means the distribution of owls continues to cover the same area, and critical habitat is continuing to provide for the life history needs of the Mexican spotted owl throughout all of the EMUs located in the U.S. We know this because project-level surveys continue to find Mexican spotted owls in the same locations across the range of the owl, and we continue to conduct section 7 consultations on federal agency actions

and receive section 10(a)(1)(b) recovery reports that provide rangewide updates regarding owl and habitat status. We do not have detailed information regarding the status of the owl in Mexico, so we cannot make inferences regarding its overall status.

However, this is not to say that changes have not occurred within the owl's U.S. range. Wildland fire has resulted in the greatest loss of PACs and critical habitat relative to other actions (*e.g.*, such as forest management, livestock grazing, recreation, etc.) throughout the U.S. range of the Mexican spotted owl. These wildland fire effects have mainly affected Mexican spotted owls within the UGM EMU (*e.g.*, Slide and Schultz Fires on the Coconino NF, Rodeo-Chediski and Wallow Fires on the Apache-Sitgreaves NF and Whitewater-Baldy Complex on the Gila NF) and BRW EMU (*e.g.*, Frye Fire and Horseshoe 2 Fire on the Coronado NF). However, wildfire effects have caused significant effects to owl habitat within other EMUs as well (*e.g.*, SRM EMU by the Las Conchas Fire, CP EMU by the Warm Fire).

#### Previous Consultations

Given the wide-range of this species, several Federal actions affect this species every year. A complete list of all formal consultations affecting this species in New Mexico is on our New Mexico Ecological Services [website](#) and the list of formal consultations in Arizona is located on our Arizona Ecological Services [website](#).

## **ENVIRONMENTAL BASELINE**

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

### **Status of the species and critical habitat within the action area**

The Gila NF is located primarily within the Upper Gila Mountain (UGM) EMU; a small portion of the Basin and Range West (BRW) EMU lies within the exterior boundary of the Gila NF (Big Burro Mountains and Mule Creek drainage). However, there is no recovery or critical habitat in the BRW EMU on the Gila NF, nor have surveys detected Mexican spotted owls in this area on the Gila NF. Within the UGM EMU, there are 309 PACs (~217,493 acres), and 81,032 acres of mixed conifer, 598,507 acres of pine-oak, and 9,338 acres of riparian recovery habitat on the Gila NF. In 2011, we only knew of 286 PACs, so the number of occupied owl sites (PACs) on the forest has increased by 23 since we wrote the last LRMP BO.

Four critical habitat units occur entirely or partially within the boundaries of the Gila NF (CHUs UGM-5a, UGM-5b, UGM-6, and UGM-7) for a total of area of 1,125,169 acres. The Forest Service estimates that there are 688,877 acres of recovery habitat on the Gila NF outside of CHUs and PACs. As stated earlier, we consider only areas identified as protected and recovery

(formerly called restricted) habitat within these CHUs to be CH (Service 2004). Therefore, the actual predicted amount of Mexican spotted owl habitat within these units is approximately 820,874 acres (73% of the area within the CHUs) (Table 2).

**Table 2.** Acres of Mexican spotted owl habitat on the Gila NF.

<b>Ranger District (RD)</b>	<b>Total Acres RD</b>	<b>PAC (acres)</b>	<b>Recovery Habitat Mixed Conifer (acres)</b>	<b>Recovery Habitat Pine-Oak (acres)</b>	<b>Recovery Habitat Riparian (acres)</b>	<b>Critical Habitat (acres PAC/Recovery Habitat within CHUs)</b>
Black Range	556,173	35,454	23,542	118,612	433	124,675
Glenwood	525,082	32,298	9,448	28,996	2,390	96,459
Quemado	602,501	25,567	21,547	202,916	491	120,811
Reserve	612,159	65,458	7,517	123,230	1,486	182,078
Silver City	405,454	13,028	3,181	32,315	1,547	55,498
Wilderness	684,442	45,688	15,798	92,438	2,991	241,353
<b>Total (acres)</b>	<b>3,385,811</b>	<b>217,493</b>	<b>81,032</b>	<b>598,507</b>	<b>9,338</b>	<b>820,874</b>

### **Factors Affecting the Mexican Spotted Owl and its Critical Habitat within the Action Area**

The forest types on the Gila NF that owls are most commonly found nesting and roosting in are the mixed conifer with aspen (~2.3% of the Gila NF), mixed conifer-frequent fire forest type (~12.1% of Gila NF), and pine-oak vegetation subclass (~8.8% of the Gila NF).

The mixed conifer with aspen forest is currently in the best shape of all vegetation types found on the Gila NF, with a close approximation of historic fire regimes (USFS 2017). However, drought often interacts with other disturbance agents, such as wildfire, resulting in an increase in the probability of landscape-scale crown fires and contributing to insect outbreaks in this forest type (USFS 2017). In general, the mixed conifer with aspen ecological response unit (ERU) has shifted from a forest with normally very large trees (20+ inch dbh) with closed canopy forest to a more open herbaceous, smaller size trees with a larger aspen component (USFS 2017).

In the mixed conifer-frequent fire forest type, fire exclusion and past management activities (such as selective logging, construction of roads, etc.) and intensive livestock grazing have contributed to higher stand densities of smaller trees and altered tree species composition (USFS 2017). However, while past timber harvest certainly affected this ERU, more of this ERU occurs on steep slopes (slopes  $\geq 40\%$ ) than any other ERU, which limited past logging operations. Data indicates that understory crowding (development of ladder fuels) is increasing within this forest type, which with extended drought, may result in these areas becoming more susceptible to moderate to high severity fire.

Pine-oak occurs within the ponderosa pine ERU on the Gila NF. At the forest-level, this ERU is highly departed from reference conditions (USFS 2017). There are currently more, small to

medium sized trees, fewer large to very large trees, and a higher degree of canopy closure in this ERU than under reference conditions. Similar to the other forested ERUs on the Gila NF, there is almost no (<1%) representation of very large size trees (20 in. +).

In 1996, the Forest Service amended the Gila NF LRMP to incorporate Regional guidance for Mexican spotted owl recovery. As a result, the Gila NF forestry program shifted emphasis from predominantly even-aged to predominantly uneven-aged forest management practices (USFS 2017). Although projects and activities addressing hazardous fuel loading had been a part of the vegetation management approach since at least the 1980s, the 2000 National Fire Plan provided directional emphasis to reduce the effects of wildfires on communities and to restore fire-adapted ecosystems. The directive of the Gila NF's new forestry program was to integrate with wildlife, watershed, and fuels management programs, subsequently providing wood products as a byproduct of other management objectives rather than a primary objective. Therefore, since 1996, thinning of upland vegetation on the Gila NF has been limited to relatively small timber sales, and post, pole and fuelwood harvest with total treatments averaging just under 18,000 acres per year (USFS 2017).

Since 2012 (and our last BO on the LMRP), we have formally consulted on two projects, and three emergency wildfire consultations (Table 3). The Forest Service designed the Luna Restoration Project (Table 3) to improve Mexican spotted owl habitat and aid in reducing the threat of stand-replacing wildfire by implementing vegetation and watershed restoration treatments. Although the Service determined in our site-specific BO for this project that there would be short-term adverse effects to the owl, we also identified long-term benefits of reduced high-intensity wildfire risk and improved forest health for the Mexican spotted owl and its forested recovery and critical habitat. The evidence is strong that thinning and prescribed burn treatments reduce fire severity (Kalies and Kent 2016; Dodge *et al.* 2019); therefore, these actions, within and adjacent to owl habitat, are important for maintaining and increasing the resiliency of forested owl habitat.

**Table 3.** Section 7(a)(2) formal consultations on the Gila NF from 2011 to 2019.\*

<b>Consultation Number</b>	<b>Consultation Date</b>	<b>Project, RD</b>	<b>Summary of Effect</b>	<b>Owl habitat Affected</b>
22410-2008-F-0149-R001	12/6/2011	National Fire Retardant Consultation, Entire forest	Incidental take will be tracked as it occurs per the BO	All PAC, recovery and critical habitat could be affected
22420-2011-F-0032	7/18/2013	Gila National Forest Travel Management Project	Harassment of 4 adult owls and associated young	Entire forest
02ENNM00-2017-F-0491	5/2/2019	Luna Restoration Project	Short-term harassment of owls associated with one PAC/3 years; short-term	16,717 acres PAC, 6,984 acres Nest/Roost Replacement Recovery, 25,058

Consultation Number	Consultation Date	Project, RD	Summary of Effect	Owl habitat Affected
			harassment of owls associated with 4 PACs/year; harm to 2 owls once/5 years	acres Foraging/dispersal Recovery
<i>02ENNM00-2018-FE-0850</i>	<i>5/29/2019</i>	<i>Buzzard Fire (2018)</i>	<i>Short-term harassment of 44 adult owls, harm to 5 young</i>	<i>Flights; 22,934 acres burnout ops; 25 acres dozer line in CH; retardant drops in 72 acres in 3 PACs and 32 acres CH; 2,019 acres CH seeded</i>
<i>02ENNM00-2018-FE-1008</i>	<i>7/24/2019</i>	<i>Ranch Fire (2019)</i>	<i>Short-term harassment of 4 adult owls, harm to 4 young</i>	<i>Retardant in 3.4 acres PAC; 0.63 acres dozer line in PAC; noise disturbance during breeding season from suppression</i>
<i>02ENNM00-2018-FE-1044</i>	<i>11/6/2019</i>	<i>Owl Fire (2018)</i>	<i>Short-term harassment of up to six adult owls</i>	<i>Flights, aerial seeding over/in PACs and CH; 100 acres burnout in PAC; 15 acres dozer line in CH; 32 acres retardant drop in CH</i>

\*Projects in italics are fire suppression activities that are not included in the proposed action for this consultation.

Fire is a keystone process across southwestern landscapes and has been an important resource management activity since 1975 in the Gila Wilderness on the Gila NF. Wildfires have burned across this landscape, shaping the vegetative composition and structure of the forested environment for centuries. However, even with the Gila NF's long history of allowing fire to occur on the landscape, extended drought and changing environmental conditions are resulting in stand replacing, landscape level fires on the Gila NF. The BA for this consultation listed 96 fires that burned in or adjacent to owl habitat on the Gila NF since 2012 (USFS 2019, Table 4). Although many of these fires likely had beneficial effects to forest vegetation and owl habitat, there are fires, such as the Whitewater-Baldy Complex, that are so large (~290,000 acres) and burned with such high intensity, that the effect on the environment is extremely negative in terms of loss of owl nesting and roosting habitat. This fire is an important fire to discuss in terms of

factors affecting the owl and its critical habitat because Whitewater Canyon had one of the highest densities of Mexican spotted owls in the southwest (Dr. Joseph L. Ganey, pers. comm.). However, the Whitewater-Baldy Complex burned over 50% of the acres of dry and wet mixed conifer at moderate to high intensity, resulting in high severity effects. Historically dry mixed conifer would have burned more frequently with less severity, and the wet mixed conifer would have exhibited patches of high fire severity (Margolis *et al.* 2011). Currently, due to lack of recent fire in the frequent fire mixed conifer forest type, we observed that the entire mixed conifer (dry and wet) matrix burned with high severity. These high-severity burn areas occurred in large patches (~5,000 to 7,000 acres) that are too large for Mexican spotted owls to make use of, even for foraging.

The interrelated effects from severe wildland fire, historical and current fire management practices, historical silvicultural practices, grazing practices, recreational activities, and a changing climate have affected the Mexican spotted owl and its critical habitat through direct habitat loss and alteration or elimination of vegetation that may develop into roosting or nesting habitat. The potential for future wildland fire exists within the action area and has already resulted in the loss of extensive patches of habitat associated with fires such as the Whitewater Baldy (2012), which burned at high-intensity across 56,891 acres of steep-slope protected habitat, 13,368 designated PAC acres, and 239,666 acres within the CHU.

**Table 4.** Approximate acres of Mexican spotted owl habitat affected by wildfire on the Gila NF since 2012 (summed across RDs).

<b>Ranger District</b>	<b>PAC (acres)</b>	<b>Protected Habitat (acres)</b>	<b>Mixed Conifer Recovery Habitat (acres)</b>	<b>Pine-Oak Recovery Habitat (acres)</b>	<b>Riparian Recovery Habitat</b>	<b>Critical Habitat* (acres)</b>
Black Range	2,451	0	2,377	13,118	14	7,671
Glenwood	1,305	0	6,831	1,271	0	5,352
Quemado	0	0	3,266	33,461	0	408
Reserve	41,960	59,980	12,961	46,362	8	309,593
Silver City	1,025	5,522	2,700	1,847	0	4,960
Wilderness	14,671	0	83,416	67,002	140	137,011
<b>Total (acres)</b>	<b>61,412</b>	<b>65,502</b>	<b>111,551</b>	<b>163,061</b>	<b>162</b>	<b>464,995</b>

\*The total critical habitat acres are the number of acres within a CHU and includes PAC and recovery acres as well as acres that likely do not meet the definition of recovery or PAC habitat.

## **EFFECTS OF THE ACTION**

Effects of the action refer to all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for

the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17).

Section 7 of the Endangered Species Act (ESA or Act) requires federal agencies to “utilize their authorities for the furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species”. Section 7 also requires federal agencies to “insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species”. However, the ESA, or any other federal statute or regulation, does not require Federal agencies to incorporate recovery plan actions into their management plans. Therefore, our discussion of effects of the action will only include those actions for which the Federal agency (Forest Service) is required to consult on under the ESA.

### **Background Information regarding the Proposed Action**

The proposed action under analysis in this BO is implementation of the Gila NF LRMP and its amendments. The most important amendment in regards to Mexican spotted owl management is the June 5, 1996, Amendment of LRMPs in Arizona and New Mexico, for the Management of the Mexican spotted owl and northern goshawk. The Forest Service voluntarily incorporated many of the management recommendations from the 1995 Recovery Plan (Service 1995) into the Gila NF LRMP through this forest plan amendment that directs site-specific management actions in owl habitat. The Endangered Species Act, or any other federal statute or regulation does not require federal agencies, to incorporate recovery plan actions into their BAs.

An LRMP provides guidance and direction in the context of a broad management framework and provides direction for managing the NF in the form of the S&Gs. Because there is little operational difference between a “standard” and “guideline,” neither the Forest Service nor the Service differentiated between the two for this analysis. The Service recognizes that some differences in interpretation may exist on the part of forest managers at the project level in the implementation of LRMPs through the S&Gs. These differences in interpretation also add to the complexity of this consultation.

The Gila NF has designated “management areas” based on such criteria as vegetation type, principal land use, and special management designations such as wilderness areas. The LRMP contains some S&Gs that apply Forest-wide and some that apply only to specific management areas. During the development of a project, each management program reviews Forest-wide and management area-specific S&Gs that either give direction to, or place constraints on, management activities (*e.g.*, thinning, grazing, recreation, mining, etc.). The S&Gs that provide direction state what managers will accomplish to achieve specific resource goals. In many cases, the Forest Service developed the S&Gs to target management of a specific species (*e.g.*, the 1996 Forest-wide amendment to include S&Gs for the Mexican spotted owl).

The LRMP directs how managers carry out current and future activities in the following management programs: (1) Engineering, (2) Fire and Aviation Management, (3) Forestry and

Forest Health, (4) Lands and Minerals, (5) Rangeland Management, (6) Recreation, Heritage and Wilderness, (7) Watershed Management, and (8) Wildlife, Fish, and Rare Plants. Each of the Forest Service's eight resource programs were discussed in depth within the April 8, 2004, BA, the June 10, 2005, LRMP BO, the April 6, 2011, BA, and the March 30, 2012, LRMP BO.

We evaluated effects to the Mexican spotted owl in the 2005 BO, and we include this analysis herein by reference (see Service 2005). The majority of the S&Gs within the Gila NF LRMP, we considered positive in the sense that they would maintain and promote recovery of Mexican spotted owl habitat. For example, within the Wildlife, Fish, and Rare Plants Program, many S&Gs direct the Gila NF to manage threatened and endangered species to achieve delisting in compliance with approved recovery plans (S&G 869). In addition, S&G 872 encourages implementing approved recovery plans and for projects to be coordinated through integrated resource management plans. Other S&Gs throughout the Gila NF LRMP state similar objectives within specific management areas on the NF. Implementation of the Recovery Plan (Service 1995 and 2012) is especially important on the Gila NF because it has the highest number of known owl sites (PACs). Because we consider Recovery Plans "road-maps" for recovering listed species, accomplishing recovery tasks and goals are important means to achieving delisting.

However, we did determine that potential adverse effects are likely to result from actions implemented by the Fire and Aviation Management, Forestry and Forest Health, Engineering (e.g., noise disturbances from road construction/maintenance) and the Land and Minerals programs (e.g., the potential for using chemical agents). However, the effects from the Engineering and the Land and Minerals programs would be extremely site-specific, so we do not discuss them further. We do provide a discussion regarding the potential effects of the Fire and Aviation Management and Forestry and Forest Health programs. The Fire Management Program combines elements of fire prevention, prescribed fire, wildland fire, and fire suppression. However, wildland fire, including fire suppression and wildland fire use for resource benefit, are not included in the proposed action (and therefore, this consultation this consultation does not cover suppression actions) and consultation on these actions will continue to be handled under emergency section 7(a)(2) consultation procedures.

### **Effects of the Action on the Mexican spotted owl**

*Fire and Aviation Management Program:* Using fire management to reintroduce fire into frequent-fire forest types is appropriate forest management and in the long-term would result in positive effects to owls by reducing the risk of high-severity fire in Mexican spotted owl habitat. High-severity, landscape level fire that results in the removal of the key habitat components owls need to successfully survive, nest, and reproduce (such as large live trees; live tree canopy cover; large, old snags) is becoming more and more of a threat (Service 2012; Jones *et al.* 2016). The Recovery Plan (Service 2012) recommends implementing fuels reduction and prescribed fire to reduce the threat of these large-scale, high-severity, stand-replacing fires. The 1996 LRMP Amendment recommends managers use combinations of thinning trees less than nine inches diameter-at-breast height (dbh), mechanical fuel removal, and prescribed fire, to reduce the threat of stand-replacing wildfire.

*Forestry and Forest Health Program:* The majority of the S&Gs related to Forest Health were generally positive for the Mexican spotted owl. For instance, maintaining natural processes, not harvesting in areas designated as old growth, and preventing fragmentation of biologically valuable stands. However, it is possible that multiple resource objectives may require the Gila NF to implement fuels reduction projects that could result in short-term adverse effects to owls resulting either from potential noise disturbance near PACs or habitat modification from treatments or associated actions to facilitate fuels reduction or forest restoration actions (e.g., log landings in owl habitat).

Thinning and/or prescribed burning activities in PAC and recovery habitat may indirectly affect Mexican spotted owls by affecting the habitat structure including snags, downed logs, woody debris, multi-storied canopies, and dense canopy cover. Under the proposed action, the Forest Service would design all treatments in PAC and recovery habitats to move toward the desired conditions as identified in the Recovery Plan and to focus removal on small-diameter trees. We expect these actions to be beneficial to reducing the threat of high severity fire in owl habitat, and we know Forest Service fire managers will use best management practices to ensure they achieve low severity fire effects in owl habitat. In addition, prescribed burning also increases vegetative diversity, which may result in a more diverse and productive prey base for owls. However, when conducting prescribed burning in areas with high levels of coarse woody debris that have not burned in a long time, there is a likelihood that rare key habitat components (i.e., snags, logs, large trees) will be unintentionally lost to fire and that this could result in short-term adverse effects to Mexican spotted owls. We expect that low intensity prescribed fire will remove far fewer key habitat components on a much smaller site-specific or local scale than a high intensity, landscape-scale wildfire; therefore, this program aligns with Recovery Plan recommendations by helping to maintain key habitat components (i.e., snags, logs, large trees), which contributes to meeting recovery objectives.

In summary, the overall assessment of the Gila NF's LRMP is positive for the Mexican spotted owl and its habitat. However, we expect short-term adverse effects to occur from site-specific actions in form of short-term disturbance (i.e., harassment) due to either noise disturbance to owls during the breeding season and/or effects to key habitat components (i.e., loss of some snags, large trees, and logs) of PAC and recovery habitat from actions implemented under the existing Gila NF LRMP.

### **Effects of the Action on Mexican spotted owl Critical Habitat**

Below we describe the PCEs related to forest structure and maintenance of adequate prey species and the effects from implementation of the LRMP.

#### Primary Constituent Elements related to forest structure:

*PCE:* A range of tree species, including mixed conifer, pine-oak, and riparian forest types, composed of different tree sizes reflecting different ages of trees, 30 percent to 45 percent of which are large trees with a dbh of 12 inches or more.

*Effect:* We expect that actions implemented under the LRMP would retain the range of tree species (*i.e.*, conifers and hardwoods associated with owl habitat) and would not reduce the range of tree sizes needed to create the diverse forest and multi-layered forest canopy Mexican spotted owls use. Some loss of trees, of all types and dbh size classes, would occur from actions such as hazard tree removal, prescribed fire, and forest thinning (as implemented under the Fire Management and Forest and Forest Health Programs). However, we expect that actions implemented under the LRMP would maintain a range of tree species and sizes needed to maintain this PCE in PACs and recovery habitat across the NF. The Forest Service would implement Recovery Plan guidelines (Service 1995 and 2012) such as retaining large trees, providing appropriate canopy cover levels, and managing for a diverse range of tree species (such as oak in pine-oak forests and several conifer species in mixed conifer forest). The proposed action would not compromise the function and recovery role of this PCE.

*PCE:* A shade canopy created by the tree branches covering 40 percent or more of the ground.

*Effect:* We expect that hazard tree removal, thinning, and burning treatments implemented under the LRMP in the Fire Management and Forest and Forest Health Programs would reduce tree shade canopy. However, we do not expect tree thinning to reduce canopy cover in Mexican spotted owl forested habitat below 40 percent, because the proposed action adopted the 1995 Recovery Plan (Service 1995) recommendations, which include managing for higher basal area and denser canopy cover in owl habitat versus pure ponderosa pine or other forest and woodland habitats. We would expect that some small reduction in existing canopy cover (5 to 10 percent) might actually aid in increasing understory herbaceous vegetation and forb production, which will benefit spotted owl prey species by providing more food for prey, thus potentially increasing prey populations. The proposed action would not compromise the function and recovery role of this PCE.

*PCE:* Large, dead trees (snags) with a dbh of at least 12 inches.

*Effect:* Large snags would most likely be reduced following proposed prescribed burning and hazard tree removal conducted under the Fire Management and Forest and Forest Health Programs. Currently, large snags are rare across the action area, and any loss of this habitat component may be significant in terms of maintaining Mexican spotted owls and prey habitat. Prescribed burning may create some snags, which could benefit the owl. However, snags currently used by Mexican spotted owls for nesting are typically very old, large dbh, highly decayed snags with cavities. In individual burning projects, the Forest Service would attempt to minimize loss of these large snags through conservation measures (such as lining or using lighting techniques to avoid snags). It is likely that following burning treatments, approximately 20 percent of these existing snags may be lost within treated (*i.e.*, burned) PAC and recovery habitat, resulting in short-term adverse effects to this PCE (Randall Parker and Miller 2000). This is why conservation measures that the Forest Service implements to protect the largest and oldest snags (particularly those with nest cavities) are so important. As such, the proposed action would not compromise the function and recovery role of this PCE.

Primary Constituent Elements related to maintenance of adequate prey species:

*PCE:* High volumes of fallen trees and other woody debris.

*Effect:* Prescribed burning treatments (broadcast, piling, and maintenance burning) would likely reduce fallen trees and woody debris as part of the Fire Management Program. Based on past research, we expect prescribed burning to reduce logs by approximately 50 percent in forested Mexican spotted owl habitat (Randall Parker and Miller 2000). This loss of large logs would result in short-term adverse effects to this PCE and could result in localized effects to prey species habitat. However, over the long-term, we would expect the proposed action to maintain this PCE across the landscape, but at a more sustainable level. As such, the proposed action would not compromise the function and recovery role of this PCE.

*PCE:* A wide range of tree and plant species, including hardwoods.

*Effect:* The Fire Management, and Forest and Forest Health Programs would positively affect this PCE. Plant species richness would likely increase following thinning and/or burning treatments that result in small, localized canopy gaps. Individual projects conducted under the LRMP typically propose conservation measures that focus on retaining oaks and other hardwoods, but some level of short-term loss could occur at the individual project level. However, the proposed action would not compromise the function and recovery role of this PCE because prescribed fire results in increased plant species diversity by creating openings in the canopy and reducing small diameter conifer density. In frequent-fire forests (that are the focus of Gila fire management), herbaceous understory response and plant regeneration tends to be positive following tree removal and prescribed fire (Springer *et al.* 2001). As such, the proposed action would not compromise the function and recovery role of this PCE.

*PCE:* Adequate levels of residual plant cover to maintain fruits and seeds, and allow plant regeneration.

*Effect:* Short-term decrease in plant cover will result from prescribed burning conducted under the Fire Management Program that may result in short-term adverse effects to the owl with regard to modifying prey habitat within treatment areas. However, we expect long-term increases in residual plant cover because treatments would provide conditions suitable for increased herbaceous plant growth by removing a thick layer of dead plant debris within treated areas. We expect that the mosaic effect created by burned and unburned areas and by opening up small patches of forest within protected habitat to increase herbaceous plant species diversity and, in turn, assist in the production and maintenance of the Mexican spotted owl prey base. The proposed action would not compromise the function and conservation role of this PCE.

**Effects of the Action on Survival and Recovery of the Mexican spotted owl**

The continued implementation of the Gila NF's LRMP, which provides for active forest management to maintain and protect existing and future nest/roost habitat actively supports the survival and recovery of the Mexican spotted owl. As stated in the Status of the Species, the Services' specific recovery objective for the Mexican spotted owl (Service 2012) is to support

the Mexican spotted owl throughout its range into the foreseeable future, and to maintain habitat conditions necessary to provide roosting and nesting habitat for the Mexican spotted owl. We know that Mexican spotted owl distribution is limited within forested and rocky canyon environments because the availability of nest/roost habitat is limited (Service 2012). In addition, prey availability and competition for nest habitat by other raptors may also limit owl distribution. The Gila NF LRMP directs forest managers to protect and maintain existing nest/roost habitat and provide adequate conditions for foraging and dispersal activities. By sustaining nesting/roosting habitat and recovery habitat, the Gila NF is meeting owl survival requirements. In addition, the Forest Service is conducting surveys in suitable habitat to locate owl sites on the Gila NF, and identifying suitable, but currently unoccupied, recovery habitat to manage for future nest/roost habitat. By conducting these actions, the Gila NF is maintaining or managing areas that contain the habitat conditions necessary to provide roosting and nesting habitat for the Mexican spotted owl within the action area, thereby aligning with Recovery Plan recommendations, which contribute to meeting recovery objectives, by providing habitat for the dispersal and the establishment of potential breeding areas for the Mexican spotted owl into the foreseeable future.

Continued implementation of the LRMP includes many actions that are recommended in the Recovery Plan (both the 1995 and the superseding 2012 Recovery Plan). These actions include conducting individual owl surveys; establishing and protecting PACs (occupied owl sites); managing for replacement nest/roost habitat; and, minimizing disturbance to Mexican spotted owls during the breeding season. Implementation of the LRMP also includes other specific Recovery Plan recommendations, such as retaining large diameter trees and snags, focusing conifer removal on small diameter trees and conducting low intensity prescribed burns in PACs, and recovery and critical habitats. The 1996 Forest Plan Amendment lists all of the owl guidelines the Gila NF incorporated from the 1995 Recovery Plan. The Mexican spotted owl Recovery Team identified these actions, particularly those designed to reduce the threat of high-severity fire, as necessary to recover the Mexican spotted owl. The Gila NF is implementing these actions in and adjacent to PACs, in recovery habitat, and in designated critical habitat. The Gila NF is a critically important landscape for Mexican spotted owl recovery due to the number of owls that occur there, the extent and connectivity of the habitat within the NF, and the location of the NF in relation to the UGM EMU and adjacent EMUs. The Gila NF is likely important for providing connectivity for spotted owl dispersal and foraging habitat across a significant portion of the owl's U.S. range. Therefore, we think that continued implementation of the Gila NF LRMP is aiding in the survival of the owl and aligns with Recovery Plan recommendations, which contribute to meeting recovery objectives.

As stated above, the Gila NF conducts surveys for individual Mexican spotted owls as part of the continued implementation of their LRMP. In addition, the Southwestern Region of the Forest Service, which includes the Gila NF, has funded implementation of Recovery Plan population monitoring (Service 2012) across NFS lands in Arizona and New Mexico from 2014 to present, and intends to fund at least four more years of occupancy monitoring. This population level monitoring, after a minimum of 10 years, will allow the Service to assess the trend (stable, increasing, or decreasing) of Mexican spotted owls on Region 3 NFS lands. In addition, this monitoring is detecting Mexican spotted owls in new locations on the Gila NF. The standardized occupancy monitoring, while unable to track the effects of site-specific management actions, will

contribute to recovery of the species because we will be able to assess the status of Mexican spotted owls on Region 3 NFS lands, evaluate the effectiveness of Recovery Plan (Service 2012) management recommendations on those lands at the landscape scale (*e.g.*, where to implement management actions and how often), and potentially determine occupancy of owls in areas outside of historical locations. However, the Forest Service cannot fund or carry out surveys on non-NFS lands. Therefore, data from this monitoring is only applicable for determining trends at the spatial scale and forested ecosystem across which it was conducted (*i.e.*, NFS lands of the Southwestern Region of the Forest Service).

While monitoring itself does not promote recovery *per se* because it has no tangible effects on Mexican spotted owls or their habitat, it does satisfy recovery (delisting) criteria number 1 (see this document, Status of Species). Rangewide monitoring is essential to determining whether delisting the owl is warranted. However, rangewide monitoring is not essential to ensuring an agency action (*i.e.*, thinning, prescribed burning) is not impeding the survival and recovery of a listed species. Furthermore, the results of population trend data would not likely inform our decisions regarding the survival or recovery as it relates to the continued implementation of the Gila NF LRMP. Increasing, decreasing, or stable trends in owl populations may be driven by factors outside the control of land management agencies and independent of habitat manipulation (*e.g.*, climate change and drought) (Seamans *et al.* 2002). Regardless of long-term trends in owl populations, it remains clear, based on information in the 2012 Recovery Plan, that safeguarding and promoting habitat features needed to support the owl is a priority for the conservation of the species. If long-term population trends revealed declining trends (which would preclude delisting), we would not necessarily construe such results as grounds for foregoing habitat management actions as proposed by the Recovery Plan (Service 1995 and 2012) and implemented by the Gila NF (*e.g.*, mechanical and prescribed fire treatments, which mitigate risk of high-severity wildfire). We think that thinning and prescribed burning treatments are necessary to safeguard key habitat elements for the owl in frequent-fire adapted forests, and to reduce the potential for widespread loss of recovery habitat and future nest/roost replacement habitat. The long-term loss of large areas of owl habitat to stand replacing fire is not conducive to Mexican spotted owl recovery.

The action under consultation is the continued implementation of the existing Gila NF LRMP, not an assessment of whether we have the data necessary to delist the Mexican spotted owl. The LRMP guides actions that occur on the Gila NF and it is not within the purview of the Gila NF to provide for the rangewide recovery of the Mexican spotted owl. There are many Federal, and state land management entities with responsibilities under applicable Federal and state laws to contribute to Mexican spotted owl survival, recovery, and ultimately delisting (Table 2). In addition, we have other partners, such as tribes, which are voluntarily working with the Service to manage for the owl. The delisting criteria for the Mexican spotted owl apply to the entire range of the owl, not just the Gila NF. While we do not yet have any reliable population trend data for the Mexican spotted owl, we do note that the known owl nesting sites remain stable and additional Mexican spotted owl surveys continue to discover additional Mexican spotted owl-nesting sites across a wider area of the range.

The continued implementation of the Gila NF LRMP would not appreciably reduce the likelihood of Mexican spotted owl survival and recovery on the Gila NF. We make this conclusion for the following reasons:

- The Gila NF has and continues to designate 600 acre PACs surrounding known Mexican spotted owl nesting and roosting sites. We establish PACs around known owl sites to protect and maintain occupied nest/roost habitat. Nesting and roosting habitat is a limiting factor across the range of the Mexican spotted owl and by identifying these areas for increased protection; the Forest Service is aiding in the survival of owls. Maintaining nest/roost habitat is the primary recovery objective of the Recovery Plan (Service 2012). There are currently 309 designated PACs on the Gila NF (covering approximately 217,493 acres or 6.4 percent of the 3.3 million acre NF). The Gila NF LRMP aligns with Recovery Plan recommendations by managing these areas for the continued protection of owls, which contributes to meeting recovery objectives.
- The Gila NF has identified and is managing for future Mexican spotted owl nest/roost habitat in pine-oak and mixed-conifer forests that have potential for becoming replacement nest-roost habitat, or is currently providing habitat for spotted owl foraging, dispersal, and wintering habitats. As stated above, nesting and roosting habitat is a limiting factor for the Mexican spotted owl throughout its range, thus the Gila NF LRMP aligns with Recovery Plan recommendations through its management of mixed-conifer and pine-oak forests to support nest-roost habitat, which contributes to meeting recovery objectives.
- The Gila NF is conducting fuels management and forest restoration actions, such as the Luna Landscape Restoration Project, which will increase the sustainability and resiliency of Mexican spotted owl critical habitat. Therefore, we expect that continued implementation of the Gila NF LRMP would not diminish the conservation contribution of critical habitat to Mexican spotted owl recovery.
- The Gila NF conducts surveys for individual owls. Conducting this monitoring aligns with Recovery Plan recommendations, which contributes to meeting recovery objectives, by allowing the Service and Forest Service to know where individual owls are nesting and roosting so that they can designate PACs to protect and manage for individual Mexican spotted owls.
- While we do not yet have any reliable population trend data for the Mexican spotted owl (nor is this type of data able to track the effects of site-specific management actions implemented under the Gila NF LMRP), we do note that the known owl nesting sites remain stable and additional Mexican spotted owl surveys continue to discover additional Mexican spotted owl-nesting sites across a wider area of the range. Although a number of different factors outside the Gila NF's may affect the Mexican spotted owl's distribution, this data does, at least in a small part, suggest that the last 23 years of this same management practice has not limited or reduced the distribution of the Mexican spotted owl across its range.

Based on those reasons alone, we conclude that the Gila NF LRMP is not appreciably reducing the Mexican spotted owl's survival and recovery. While not the basis of our Section 7 "survival and recovery" determination, another encouraging conservation measure undertaken by the Gila

NF to advance the data needed for any possible future delisting analysis under Section 4 of the ESA is the following:

- The Gila NF participates in Recovery Plan population monitoring (Service 2012), which aligns with Recovery Plan recommendations and contributes to meeting recovery objectives, by allowing the Service to assess the status of Mexican spotted owls on Region 3 NFS lands and evaluate effectiveness of the Recovery Plan (Service 2012) management recommendations on those lands at the landscape scale (*i.e.*, where to implement management recommendations and how often).

## **CUMULATIVE EFFECTS**

Cumulative effects include the effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action we do not consider in this section because they require separate consultation pursuant to section 7 of the Act. Since the Forest Service almost exclusively manages the land within the action area, most activities that could potentially affect listed species are Federal activities and subject to additional section 7(a)(2) consultations. These activities include forest and fuels management, prescribed burning, recreation (trail construction and designation), road construction and maintenance, and all of the management actions on the Gila NF that could affect Mexican spotted owls or their designated critical habitat.

### **State Actions**

The State of New Mexico manages game animals on all jurisdictions in the State including the Gila NF. The species that has the potential to affect the Mexican spotted owl and its critical habitat on NFS lands are wild ungulates, such as elk (*Cervus canadensis*). Within the action area, the New Mexico Department of Game and Fish manages game animals in Management Units 15, 16A, 16B, 16C, 16D, 21A, 22, 23, and 24. Grazing by large ungulates may affect habitat for prey species for the Mexican spotted owl by reducing herbaceous and woody vegetation that small mammals use for food and cover. The effect varies across the action area. However, game numbers within the management units on the Gila NF are stable and at a size that does not result in significant effects (*e.g.*, loss of herbaceous understory or woody plant species) to owl prey habitat (USFS 2019).

The New Mexico Game and Fish Department is active, both directly and indirectly, in species conservation and recovery, which includes the Mexican spotted owl.

### **Private and Tribal Actions**

Actions on private lands occur on multiple inholdings and adjacent to the administrative boundary of the Gila NF. Actions include livestock grazing, mining, residential and commercial developments, water developments, and recreation. The effects of these actions most likely

affect owl foraging habitat through effects from livestock grazing on herbaceous plant cover and the removal of coarse woody debris, snags, and trees from localized development and construction.

### **Climate Change**

Warming of the earth's climate is unequivocal, as is now evident from observations of increases in average global air and ocean temperatures, widespread melting of glaciers and the polar ice cap, and rising sea level (Intergovernmental Panel on Climate Change [IPCC] 2007, 2014). The IPCC (2007) describes changes in natural ecosystems with potential widespread effects on many organisms. The potential for rapid climate change poses a significant challenge for fish and wildlife conservation. Species abundance and distribution is dynamic, and dependent on a variety of factors, including climate (Parmesan and Galbraith 2004). Typically, as climate changes, the abundance and distribution of fish and wildlife will also change. Highly specialized or endemic species are likely to be most susceptible to the stresses of changing climate. Based on these findings and other similar studies, the Department of the Interior requires agencies under its direction to consider potential climate change effects as part of their long-range planning activities.

The Southwest is the hottest and driest region in the United States (Garfin *et al.* 2014). The IPCC (2007) stated that there would be an increase in the frequency of hot extremes, heat waves, and heavy precipitation events. Climate forecasts predict a northward shift in the jet stream and winter-spring storm tracks, which are consistent with observed trends over recent decades (Trenberth 2007). This would likely result in future drier conditions for the Southwest and an increasing probability of drought for the region (Trenberth 2007). Seager *et al.* (2007) show that there is a broad consensus among climate models that the Southwest will get drier in the 21<sup>st</sup> century and that the transition to a more arid climate is already under way. Only one of 19 models has a trend toward a wetter climate in the Southwest (Seager *et al.* 2007).

The following are the likely future effects of climate change in New Mexico and the Southwest (Frankson *et al.* 2017):

1. Average annual temperature has increased by almost 2 degrees Fahrenheit since the 1970s, and the number of hot days and warm nights has increased. Historically unprecedented future warming is likely.
2. The summer monsoon rainfall, which provides much needed water for agricultural and ecological systems, varies greatly from year to year and future trends in such precipitation are highly uncertain.
3. Droughts are a serious threat in this water-scarce state. Experts predict that drought intensity will increase and snowpack accumulation will decrease, which will pose a major challenge to New Mexico's environmental, agricultural, and human systems. Models project that wildfire frequency and severity will increase in New Mexico.

Climate change has and will continue to affect the Mexican spotted owl, particularly as high intensity wildfire frequency and size increase. In addition, prolonged drought is killing large, old trees and modifying forest structure. Currently, the best adaptation strategy we have for

addressing the effects of climate change is to reduce the vulnerability of mixed conifer and pine-oak forest to drought, wildfire, and insect outbreaks by reducing tree density, protecting large trees and snags, and reintroducing low intensity prescribed fire into frequent-fire adapted forests.

## **JEOPARDY AND ADVERSE MODIFICATION ANALYSIS**

Section 7(a)(2) of the ESA requires that federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

### **Jeopardy Analysis Framework**

Our jeopardy analysis relies on the following:

“Jeopardize the continued existence of” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR 402.02). The following analysis relies on four components: (1) Status of the Species, which evaluates the range-wide condition of the listed species addressed, the factors responsible for that condition, and the species’ survival and recovery needs; (2) Environmental Baseline, which evaluates the condition of the species in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the species; (3) Effects of the Action (including those from conservation measures), which determines the direct and indirect effects of the proposed federal action on the species; and (4) Cumulative Effects, which evaluates the effects of future, non-federal activities in the action area on the species. The jeopardy analysis in this BO emphasizes the range-wide survival and recovery needs of the listed species and the role of the action area in providing for those needs. We evaluate the significance of the proposed Federal action within this context, taken together with cumulative effects, for making the jeopardy determination.

### **Destruction/Adverse Modification Analysis Framework**

The final rule revising the regulatory definition of “destruction or adverse modification of critical habitat” became effective on March 14, 2016 (81 FR 7214). The revised definition states: “Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.”

Similar to our jeopardy analysis, our adverse modification analysis of critical habitat relies on the following four components: (1) the Status of Critical Habitat, which evaluates the range-wide condition of designated critical habitat in terms of PCEs, the factors responsible for that condition, and the intended recovery function of the critical habitat overall; (2) the Environmental Baseline, which evaluates the condition of the critical habitat in the action area,

the factors responsible for that condition, and the recovery role of the critical habitat in the action area; (3) the Effects of the Action, which determine the direct and indirect effects of the proposed federal action on the PCEs and how they will influence the recovery role of affected critical habitat units; and (4) Cumulative Effects, which evaluate the effects of future, non-federal activities in the action area on the PCEs and how they will influence the recovery role of affected critical habitat units.

## Conclusion

After reviewing the current status of the Mexican spotted owl and its designated critical habitat, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is our biological opinion that continued implementation of the Gila NF's LRMP will not jeopardize the continued existence of the Mexican spotted owl, and will not destroy or adversely modify its designated critical habitat. We base our conclusions on the following:

1. The proposed action requires the Forest Service to manage for Mexican spotted owl survival and recovery on the Gila NF. It is required because the Gila NF LRMP explicitly directs the Forest Service to protect PACs (occupied owl sites) and to manage for future nest/roost replacement habitat. This meets the recovery objective as defined in the Recovery Plan for the Mexican spotted owl, First Revision (Service 2012).
2. Standards and guidelines in the Gila NF LRMP will aid in reducing the risk of high-severity, stand-replacing, landscape level fire in mixed conifer and pine-oak forests that the Mexican spotted owl occupies on the Gila NF. These efforts to improve forest condition and sustainability should reduce the risk of high severity wildfire and subsequently, reduce the loss of owl habitat, specifically nest/roost habitat, which is a limiting factor for the owl. The protection and maintenance of Mexican spotted owls and their critical habitat will aid in the survival of Mexican spotted owls.
3. While some short-term adverse effects may occur as part of site-specific actions carried out under the LRMP, the S&Gs will help to minimize those effects over the long-term by minimizing disturbance to breeding Mexican spotted owls (*i.e.*, not conducting actions in or immediately adjacent to PACs during the breeding season). By implementing the proposed action the Forest Service will also improve the sustainability and resiliency of forested owl habitat through tree thinning, prescribed burning, and other forest management actions.
4. Based on the discussion provided in the Effects to Mexican Spotted Owl Critical Habitat section above, the four CHUs affected by the continued implementation of the LRMP will continue to serve the function and recovery role of critical habitat for the Mexican spotted owl. The Forest Service is conducting forest thinning and prescribed burning that will improve the forest structure (reducing number of trees), function (ability of forest to withstand stochastic events), and processes (reintroduction of fire to frequent fire forests).

These actions will allow critical habitat to better serve its role in owl recovery by increasing the forests' ability to withstand long-term drought and disease and still provide nesting, roosting, foraging, and dispersal habitat for owls.

We based the conclusions of this biological opinion on full implementation of the project as presented in the Description of the Proposed Action section of this document, including any Conservation Measures that the Forest Service incorporated into the project design.

## INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulations pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is further defined (50 CFR § 17.3) to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. "Harass" is defined (50 CFR § 17.3) as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering. "Incidental take" is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

### Programmatic Consultations

The proposed action described above is a "framework programmatic action" as defined in 50 CFR 402.02. In accordance with 50 CFR 402.14(i)(6), an incidental take statement is not required at the programmatic level for a framework that does not authorize future actions; incidental take resulting from any action subsequently authorized, funded, or carried out under the program will be addressed in subsequent section 7(a)(2) consultation, as appropriate. This BO provides a broad-scale examination of the proposed action's potential effects on the Mexican spotted owl, but we lack reasonable certainty of where, when, and how much incidental take may occur. Therefore, we have not quantified the amount and extent of incidental take that may result from the proposed action and have not exempted such take in this BO.

We provide reasonable and prudent measures to minimize the effects, *i.e.*, amount or extent, of incidental take. [50 CFR §402.02]. However, since there is no incidental take anticipated because of this action, there are no reasonable and prudent measures or implementing terms and conditions included in this BO.

### CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and

threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

1. We recommend that the Forest Service work with the Service to monitor forest thinning and prescribed burning effects on the key habitat components of Mexican spotted owl habitat on the Gila NF.

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

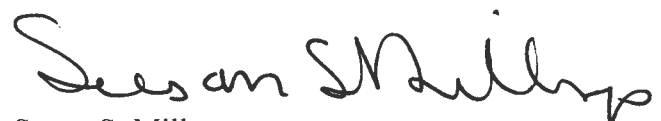
### REINITIATION NOTICE

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

In keeping with our trust responsibilities to American Indian Tribes, we encourage you to continue to coordinate with the Bureau of Indian Affairs in the implementation of this consultation. By copy of this BO, we are notifying the Acoma Pueblo, Comanche Indian Tribe, Fort Sill Apache Tribe, Hopi Tribe, Isleta Pueblo, Laguna Pueblo, Mescalero Apache Tribe, Navajo Nation, White Mountain Apache Tribe, Ysleta del Sur Pueblo, and Zuni Pueblo of its completion. We also encourage you to coordinate the review of this project with the New Mexico Department of Game and Fish.

We appreciate the Gila NFs efforts to identify and minimize effects to Mexican spotted owls from continued implementation of the LRMP, as amended. Please refer to the consultation number, 02E00000-2012-F-0010-R001 in future correspondence concerning this project. Should you require further assistance or if you have any questions, please contact Jodie Mamuschia (505) 761-4762 or me at (505) 761-4781.

Sincerely,



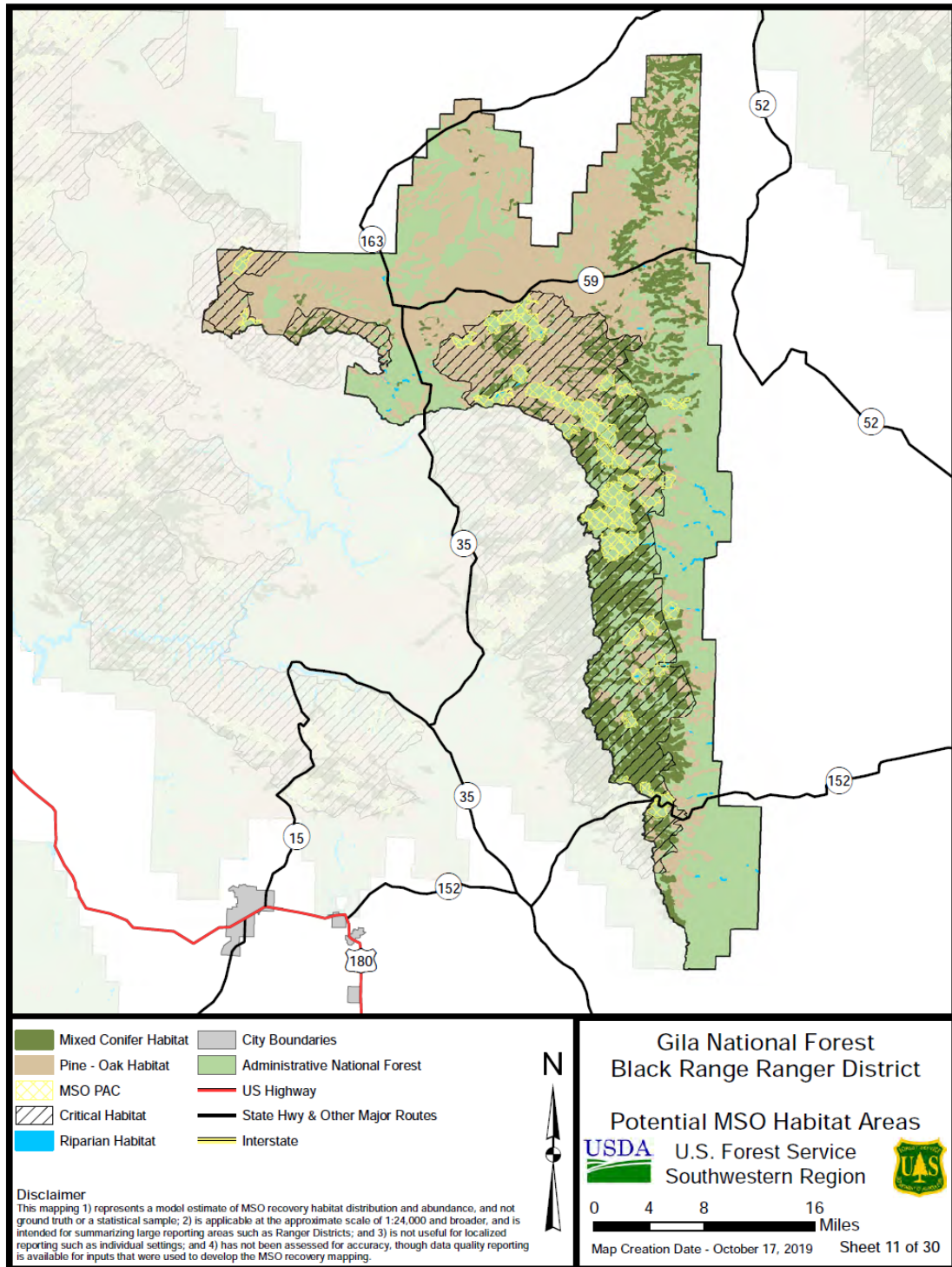
Susan S. Millsap  
Field Supervisor

cc (electronic):

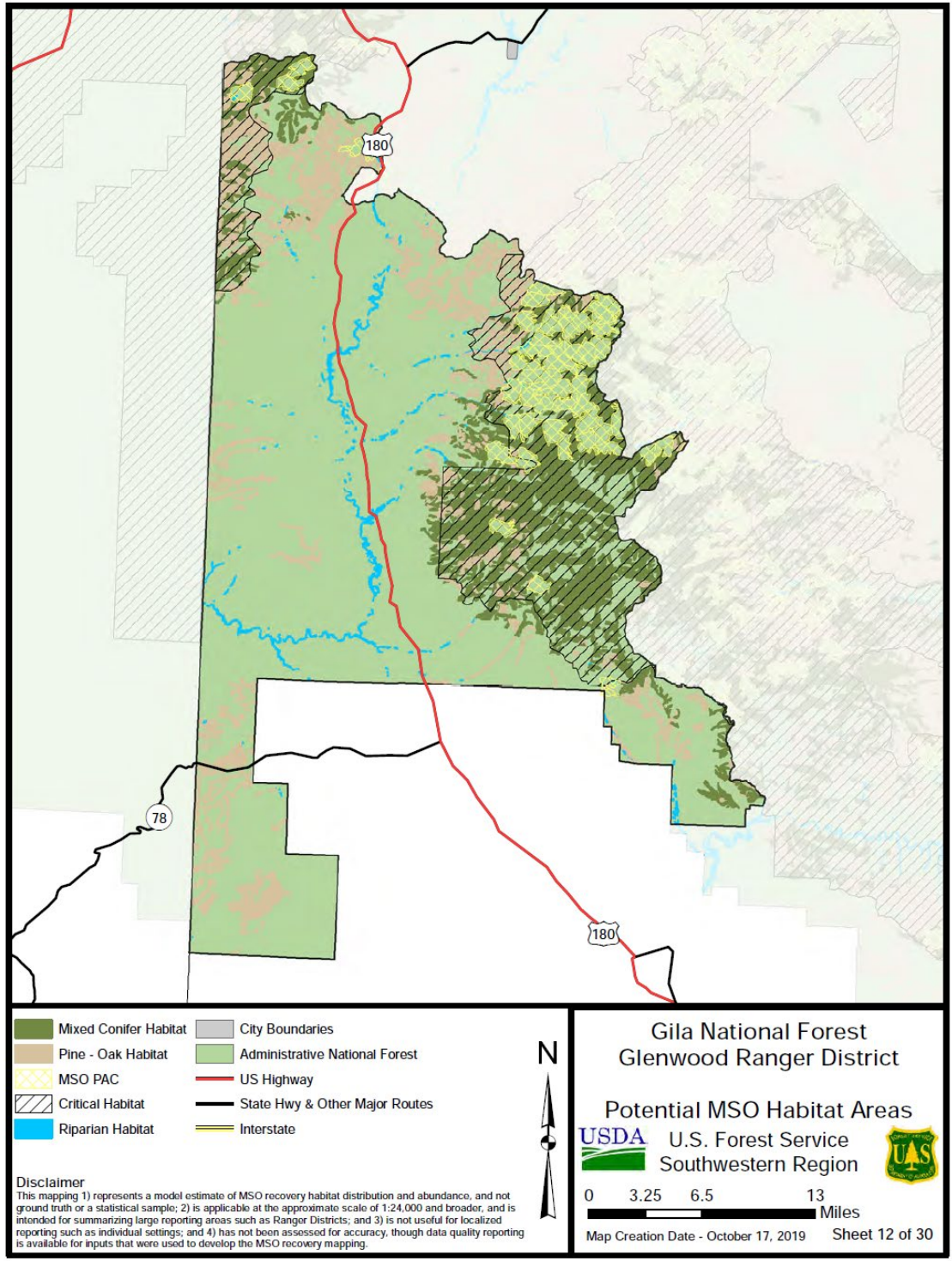
Regional Director, Wildlife, Fish, Rare Plants & Rangeland Management, Forest Service,  
Albuquerque, NM (Attn: Robert Trujillo)  
Deputy Director, Wildlife, Fish, and Rare Plants Program, Forest Service, Albuquerque, NM  
(Attn: Bobbi Barrera)  
Program Leader, Threatened/Endangered/Sensitive Species Program, Southwestern Region,  
Forest Service, Albuquerque, NM (Attn: Ron Maes)  
Chief, Threatened and Endangered Species, Ecological Services Region 2, Albuquerque, NM  
Regional Consultation Coordinator, Threatened and Endangered Species, Ecological  
Services, Region 2, Albuquerque, NM (Attn: Marty Tuegel)  
Fish and Wildlife Biologist, New Mexico Ecological Services Field Office, Albuquerque,  
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Field Supervisor, Arizona Ecological Services Office, Phoenix, AZ  
Senior Fish and Wildlife Biologist, Arizona Ecological Services Office, Flagstaff, AZ

Director, New Mexico Department of Game and Fish, Santa Fe, NM (Attn: Michael Sloane)  
Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry  
Division, Santa Fe, NM (Attn: Laura McCarthy)  
Natural Resources Director, Pueblo of Acoma, Acoma, NM (Attn: Franklin Martinez)  
Director, Environmental Programs, Comanche Nation, Lawton, OK (Attn: Lynn Schonchin)  
Vice-Chair, Fort Sill Apache, Apache, OK (Attn: Lori Gooday)  
Natural Resources Director, Hopi Tribe, Kykotsmovi, AZ (Attn: Darren Talayumptewa)  
Natural Resources Director, Isleta Pueblo, Isleta, NM (Attn: Mark Dickson)  
Natural Resources Director, Pueblo of Jemez, Jemez Pueblo, NM (Attn: Paul Clark)  
Director, Environmental Department, Kiowa Tribe of Oklahoma, Carnegie, OK  
(Attn: Dorla Tartsah)  
Natural Resources Director, Pueblo of Laguna, Laguna, NM (Attn: Steven Etter)  
Natural Resources Director, Mescalero Apache Tribe, Mescalero, NM  
(Attn: Gregory Mendez)  
Director, Division of Natural Resources, Navajo Nation, Window Rock, AZ  
(Attn: Rudolph Sheeabla)  
Natural Resource Director, White Mountain Apache Tribe, Whiteriver, AZ  
(Attn: Stuart Leon)  
Natural Resources Directory, Ysleta del Sur Pueblo of Texas, El Paso, TX  
(Attn: Rick Quezada)  
Natural Resources Director, Zuni Pueblo, Zuni, NM (Attn: Nelson Luna)  
Environmental Protection Officer, Environmental Quality Services, Western Regional  
Office, Bureau of Indian Affairs, Phoenix, AZ

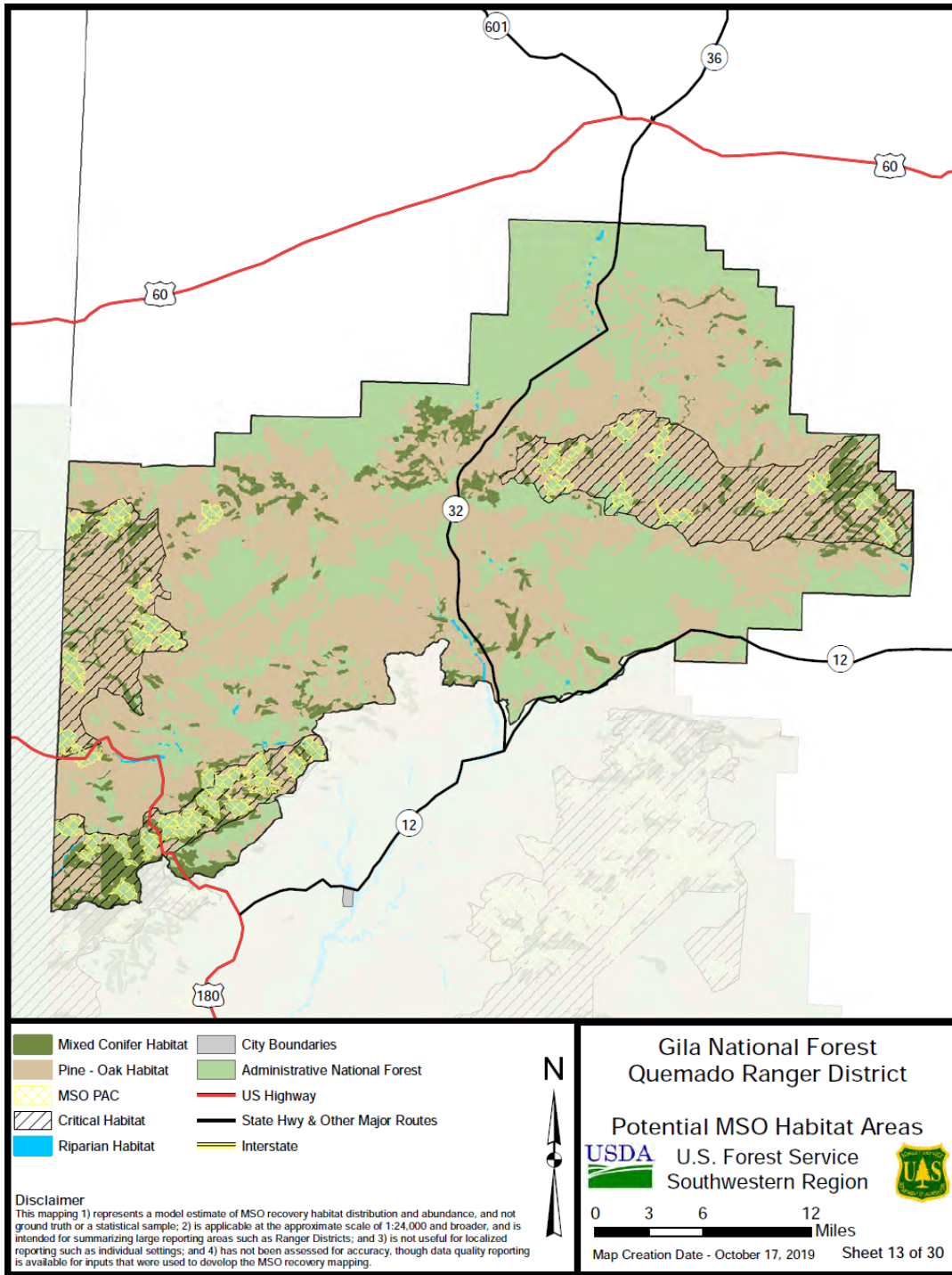
### FIGURES



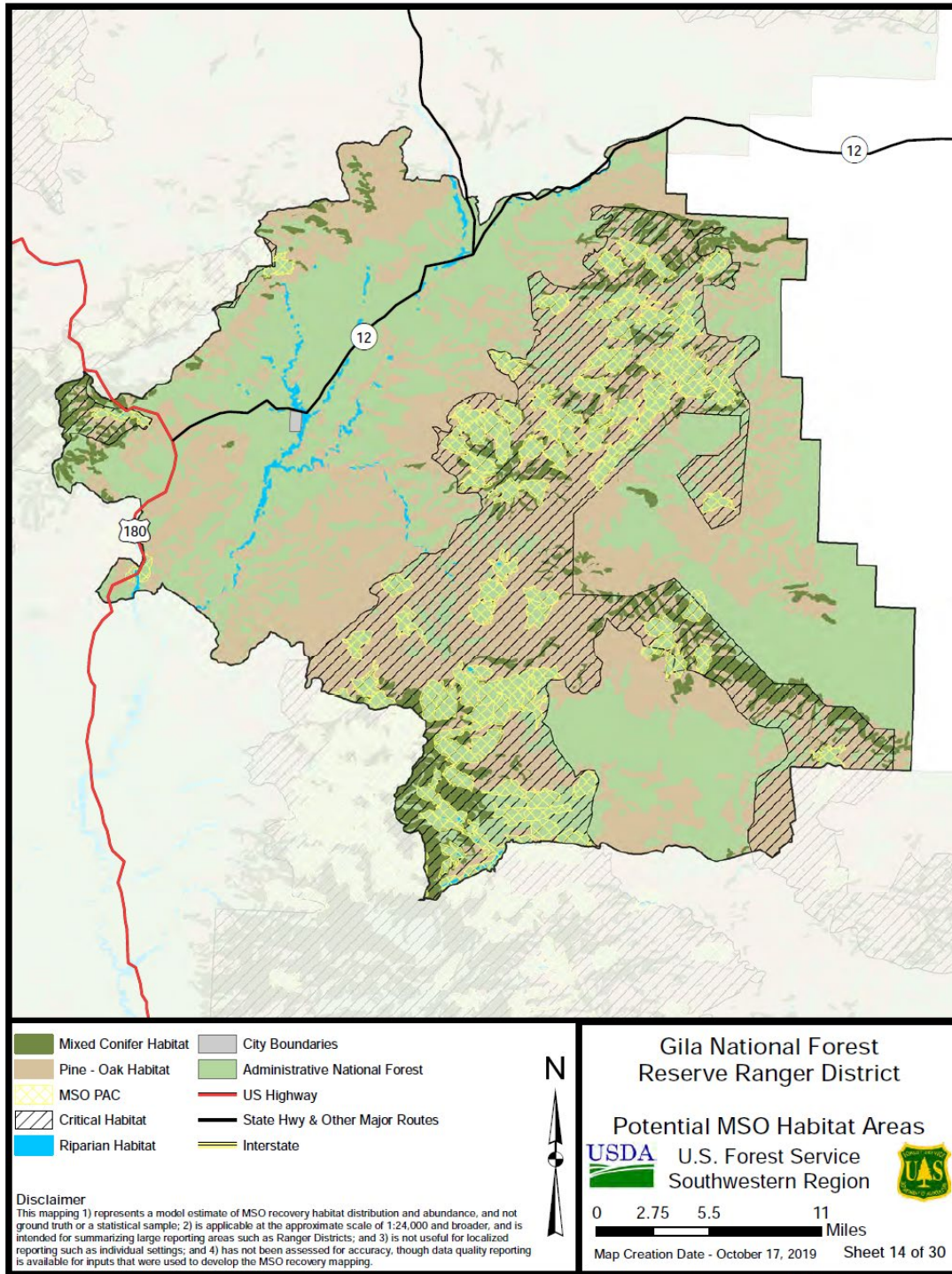
**Figure 1.** Mexican spotted owl PAC, recovery habitat, and critical habitat on the Black Range RD, Gila NF.



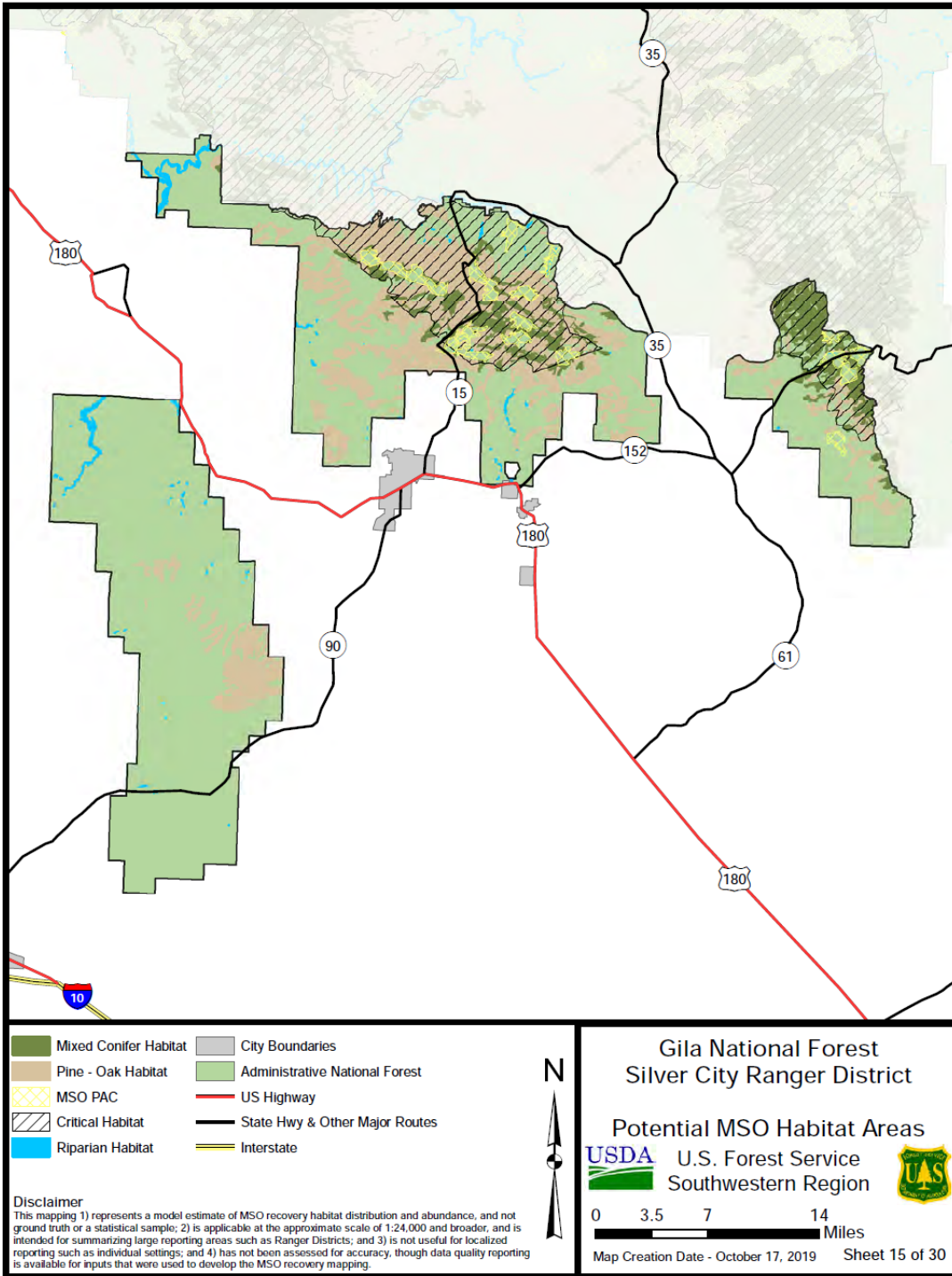
**Figure 2.** Mexican spotted owl PAC, recovery habitat, and critical habitat on the Glenwood RD, Gila NF.



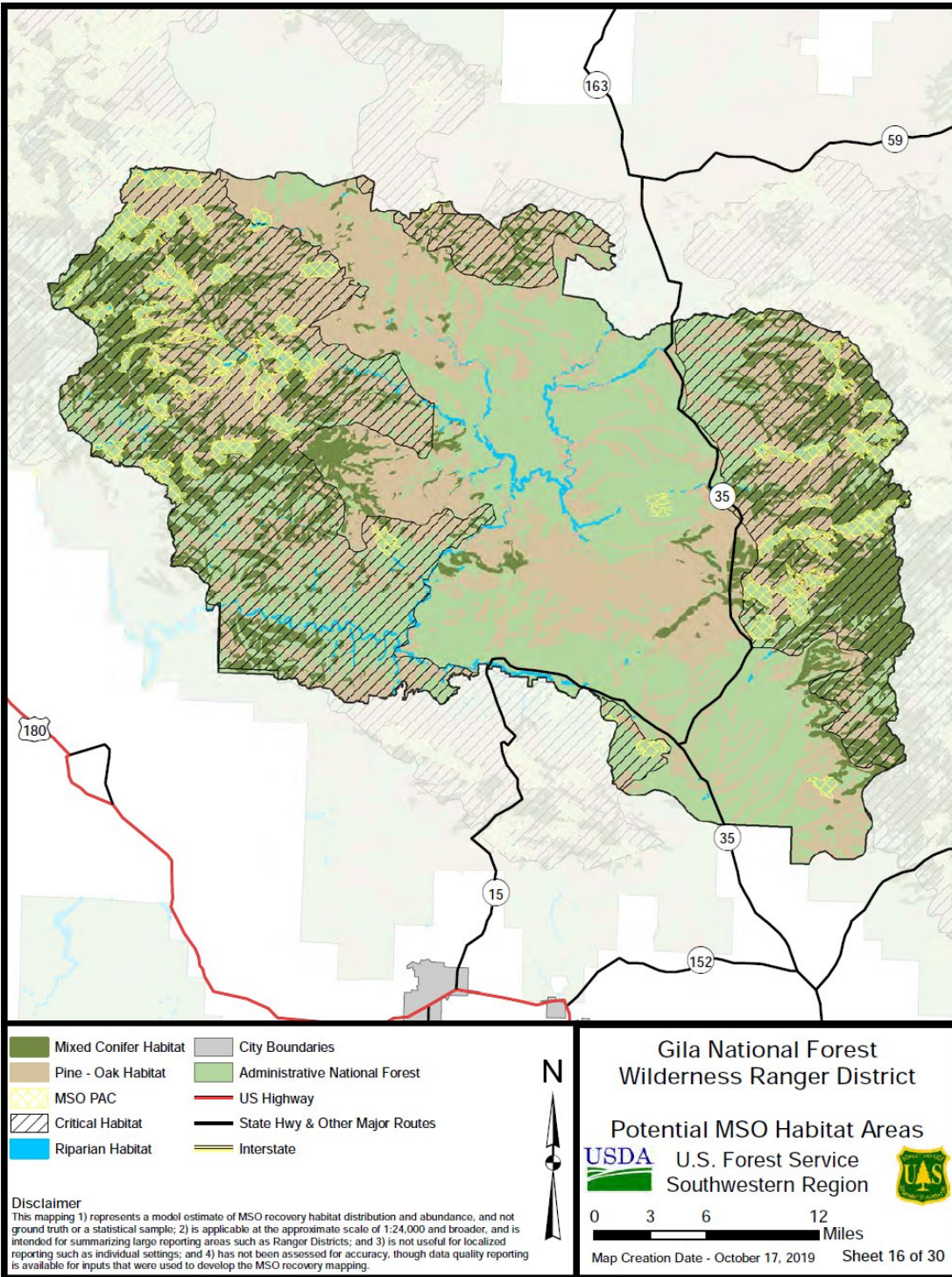
**Figure 3.** Mexican spotted owl PAC, recovery habitat, and critical habitat on the Quemado RD, Gila NF.



**Figure 4.** Mexican spotted owl PAC, recovery habitat, and critical habitat on the Reserve RD, Gila NF.



**Figure 5.** Mexican spotted owl PAC, recovery habitat, and critical habitat on the Silver City RD, Gila NF.



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**Figure 6.** Mexican spotted owl PAC, recovery habitat, and critical habitat on the Wilderness RD, Gila NF.

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