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■ 6. Section 101.139 is amended by adding paragraphs (h) and (i) to read as follows:

§ 101.139 Authorization of transmitters.

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(h) 71,000–76,000 MHz; 81,000–86,000 MHz. For equipment employing digital modulation techniques, the minimum bit rate requirement is 0.125 bit per second per Hz.

(i) 92,000–94,000 MHz; 94,100–95,000 MHz. For equipment employing digital modulation techniques, the minimum bit rate requirement is 1.0 bit per second per Hz.

■ 7. Section 101.147 is amended by revising paragraph (z) to read as follows:

§ 101.147 Frequency Assignments.

* * * * *

(z) 71,000–76,000 MHz; 81,000–86,000 MHz; 92,000–94,000 MHz; 94,100–95,000 MHz. (1) Those applicants who are approved in accordance with FCC Form 601 will each be granted a single, non-exclusive nationwide license. Site-by-site registration is on a first-come, first-served basis. Registration will be in the Universal Licensing System until the Wireless Telecommunications Bureau announces by public notice, the implementation of a third-party database. See 47 CFR 101.1523. Links may not operate until NTIA approval is received. Licensees may use these bands for any point-to-point non-broadcast service.

(2) Prior links shall be protected using the interference protection criteria set forth in section 101.105. For transmitters employing digital modulation techniques and operating in the 71,000–76,000 MHz or 81,000–86,000 MHz bands, the licensee must construct a system that meets a minimum bit rate of 0.125 bits per second per Hertz of bandwidth. For transmitters that operate in the 92,000–94,000 MHz or 94,100–95,000 MHz bands, licensees must construct a system that meets a minimum bit rate of 1.0 bit per second per Hertz of bandwidth. If it is determined that a licensee has not met these loading requirements, then the database will be modified to limit coordination rights to the spectrum that is loaded and the licensee will lose protection rights on spectrum that has not been loaded.

■ 8. Section 101.1505 is revised to read as follows:

§ 101.1505 Segmentation plan.

(a) An entity may request any portion of the 71–76 GHz and 81–86 GHz bands, up to 5 gigahertz in each segment for a

total of 10 gigahertz. Licensees are also permitted to register smaller segments.

(b) The 92–95 GHz band is divided into three segments: 92.0–94.0 GHz and 94.1–95.0 GHz for non-government and government users, and 94.0–94.1 GHz for Federal Government use. Pairing is allowed and segments may be aggregated without limit. The bands in paragraph (a) of this section can be included for a possible 12.9 gigahertz maximum aggregation. Licensees are also permitted to register smaller segments than provided here.

■ 9. Section 101.1513 is revised to read as follows:

§ 101.1513 License term and renewal expectancy.

The license term is ten years, beginning on the date of the initial authorization (nationwide license) grant. Registering links will not change the overall renewal period of the license.

■ 10. Section 101.1523 is amended by revising paragraph (b) to read as follows:

§ 101.1523 Sharing and coordination among non-government licensees and between non-government and government services.

* * * * *

(b) The licensee or applicant shall:

(1) Complete coordination with Federal Government links according to the coordination standards and procedures adopted in Report and Order, FCC 03–248, and as further detailed in subsequent implementation public notices issued consistent with that order;

(2) Provide an electronic copy of an interference analysis to the third-party database manager which demonstrates that the potential for harmful interference to or from all previously registered non-government links has been analyzed according to the standards of section 101.105 and generally accepted good engineering practice, and that the proposed non-government link will neither cause harmful interference to, nor receive harmful interference from, any previously registered non-government link; and

(3) Provide upon request any information related to the interference analysis and the corresponding link. The third-party database managers shall receive and retain the interference analyses electronically and make them available to the public. Protection of individual links against harmful interference from other links shall be granted to first-in-time registered links. Successful completion of coordination via the NTIA automated mechanism

shall constitute successful non-Federal Government to Federal Government coordination for that individual link.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU31

Endangered and Threatened Wildlife and Plants; Opening of the Comment Period for the Proposed and Final Designation of Critical Habitat for the Klamath River and Columbia River Populations of Bull Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; opening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the opening of a public comment period on the proposed and final designation of critical habitat for the Klamath River and Columbia River populations of bull trout (*Salvelinus confluentus*). Due to court action, we have determined that it would be appropriate to reevaluate the exclusions made in the final critical habitat rule. We are opening this comment period to allow all interested parties to comment simultaneously on the November 29, 2002, proposed rule (67 FR 71235) and the October 6, 2004, final rule (69 FR 59996). Copies of the proposed and final rules, as well as the economic analysis for the critical habitat designation, are available on the Internet at <http://pacific.fws.gov/bulltrout> or from the Portland Regional Office at the address and contact numbers below.

DATES: We will accept public comments until June 24, 2005.

ADDRESSES: Written comments and materials may be submitted to us by any one of the following methods:

1. You may submit written comments and information to John Young, Bull Trout Coordinator, U.S. Fish and Wildlife Service, Ecological Services, 911 NE 11th Avenue, Portland, OR 97232;

2. You may hand-deliver written comments and information to our office, at the above address, or fax your comments to 503/231–6243; or

3. You may also send comments by electronic mail (e-mail) to R1BullTroutCH@r1.fws.gov. For

directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section. In the event that our internet connection is not functional, please submit your comments by the alternate methods mentioned above.

FOR FURTHER INFORMATION CONTACT: John Young, at the address above (telephone 503/231-6194; facsimile 503/231-6243).

SUPPLEMENTARY INFORMATION:

Background

We published a proposed rule to designate critical habitat for the Klamath River and Columbia River populations of bull trout on November 29, 2002 (67 FR 71235). The proposed critical habitat designation included approximately 18,471 miles (mi) (29,720 kilometers (km)) of streams, and 532,721 acres (ac) (215,585 hectares (ha)) of lakes and reservoirs on Oregon, Washington, Idaho, and Montana. The final critical habitat designation was published on October 6, 2004 (69 FR 59996), and included approximately 1,748 mi (2,813 km) of streams and 61,235 ac (24,781 ha) of lakes and marshes. On December 14, 2004, Alliance for the Wild Rockies *et al.* (plaintiffs) filed a complaint challenging the adequacy of the final designation. In particular, the plaintiffs challenged the exclusions made in the final rule, pursuant to section 4(b)(2) of the Act.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act, with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that "The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) of this section on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned."

The economic analysis estimated the potential economic effects over a 10-year period would range from \$200 to \$260 million (\$20 to \$26 million per year) for the bull trout. It is expected that Federal agencies will bear 70

percent of these costs. The total estimated costs associated with bull trout consultation is expected to be \$9.8 million annually, and total project modification costs are expected to range from \$19.5 to \$26.1 million annually. Economic costs were considered in balancing the benefits of including and excluding areas from critical habitat. The economic analysis is available on the Internet and from the mailing address in the **ADDRESSES** section above.

Once the public comment period has closed, we will compile all comments and data received and consider them for use in our reevaluation of the final rule. We will then reconsider all of the relevant impacts of designating the proposed areas as critical habitat on the basis of our administrative record. We do not intend to contract for a new formal economic analysis, but we will consider any new information received regarding the economic impacts of the designation. Upon completion of the reconsideration process, we will issue a new final rule designating critical habitat for the Klamath River and Columbia River populations of bull trout.

Public Comments Solicited

We intend that any final action resulting from our November 2002 proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the portion of the proposed rule subject to reevaluation. We will accept written comments and information during this comment period on the November 29, 2002, proposed rule (67 FR 71235) and the October 6, 2004, final rule (69 FR 59996). On the basis of public comment, during the development of our new final determination, we may find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2), or not appropriate for exclusion. In all of these cases, this information would be incorporated into our new final determination with respect to those areas. We specifically seek comments on:

(1) The reasons why any of the habitat identified in this rule should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of exclusion outweigh the benefits of specifying such area as part of critical habitat;

(2) Information related to the benefits of designating any specific areas as critical habitat for the bull trout;

(3) Information related to the benefits of excluding any specific areas as critical habitat for the bull trout;

(4) Specific information on the amount and distribution of bull trout habitat, and why those particular amounts and distributions of habitat are essential to the conservation of this species;

(5) Any effects of the Ninth Circuit's recent decision in *Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service*, 378 F.3d 1059 (Ninth Cir. 2004) that we should consider in our review of the final designation of critical habitat for the Klamath River and Columbia River populations of bull trout (69 FR 59996);

(6) Any foreseeable economic or other impacts resulting from the designation of critical habitat, in particular, any previously unidentified impacts on small entities or families;

(7) Whether the draft economic analysis identifies all State and local economic costs and economic benefits attributable to the critical habitat designation. If not, what costs and benefits are overlooked;

(8) Are the adjustments to local governments' economic data made by the economic analysis reasonable? If not, please provide alternative interpretations and the justification for the alternative, and/or the reasons the interpretation in the economic analysis is not correct;

(9) Any previously unidentified impacts associated with likely regulatory changes as a result of the designation of critical habitat;

(10) Any previously unidentified regional costs or benefits associated with land use controls that derive from the designation, to the extent possible economic cost or benefit analysis should be included as the Service will not conduct additional economic analysis on this rule;

(11) Whether the designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from the final designation;

(12) Some of the lands we have identified as essential for the conservation of the bull trout were excluded from critical habitat designation. We specifically solicit comment on the inclusion or exclusion of such areas and:

(a) Whether these areas are essential and why;

(b) The benefits of including these areas as essential habitat;

(c) The benefits of excluding these areas as essential habitat;

(13) With specific reference to the recent amendments to sections 4(a)(3) and 4(b)(2) of the Act, we request

information from the Department of Defense to assist the Secretary of the Interior in making a determination as to whether to exclude critical habitat on lands administered by or under the control of the Department of Defense based on the benefit of an Integrated Natural Resources Management Plan (INRMP) to the conservation of the species; and information regarding impacts to national security associated with designation of critical habitat; and

(14) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

(15) Whether contemplated changes to Federal land management plans should be considered and if so, how.

Refer to the **ADDRESSES** section for information on how to submit written comments and information. Our final determination on critical habitat for the Klamath River and Columbia River populations of bull trout will take into consideration all comments and any additional information received.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-AU31" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the Bull Trout Coordinator (see **ADDRESSES** section).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of

organizations or businesses, available for public inspection in their entirety.

Comments and materials received, as well as supporting documentation used to designate critical habitat, will be available for inspection, by appointment, during normal business hours, in the U.S. Fish and Wildlife Service Office at the above address.

Copies of the final economic analysis and proposed and final rules are available on the Internet at: <http://pacific.fws.gov/bulltrout> or from the Bull Trout Coordinator at the address and contact numbers above.

Author

The primary author of this notice is the U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 16, 2005.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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